UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/49/635
3 November 1994

ORIGINAL: ENGLISH

Forty-ninth session
Agenda item 100 (c)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Cambodia

Recommendations of the Special Representative for human rights in Cambodia and the role of the United Nations Centre for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights

Report of the Secretary-General

CONTENTS

		Paragraphs	Page
ABBREVIATIONS			5
I.	INTRODUCTION	1 - 5	6
II.	MISSION TO CAMBODIA OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL IN CAMBODIA	6 - 11	7
III.	MISSION TO CAMBODIA OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS	12	9
IV.	COOPERATION BY THE GOVERNMENT	13	9
V.	THE CONTINUING CHALLENGE TO THE SECURITY SITUATION	14 - 31	10
	A. Government offensives against strongholds of the National Army of Democratic Kampuchea	16 - 18	10
	B. Resumption of full-fledged warfare	19 - 20	11

94-43077 (E) 171194 211194

CONTENTS (continued)

		Paragraphs	Page
C.	New mines laid by both sides	21	11
D.	Serious shortcomings of the Royal Cambodian Armed Forces	22 - 25	12
E.	Human rights implications	26 - 29	12
F.	Political instability and the challenge to security	30 - 31	13
VI.	CRIMES, ABUSES AND ATTACKS BY MEMBERS OF THE PARTY OF DEMOCRATIC KAMPUCHEA ("KHMER ROUGE")	32 - 45	14
A.	Forced disappearances	33	14
B.	Abduction of foreigners	34 - 36	14
C.	Continuing crimes, abuses and attacks	37	15
D.	"Ethnic cleansing"	38 - 40	16
E.	Detention centres in zones controlled by the National Army of Democratic Kampuchea	41 - 45	16
VII.	HUMAN RIGHTS RECOMMENDATIONS	46	18
VIII.	ACTION TAKEN ON THE FIRST REPORT	47 - 61	18
IX.	UPDATE ON SELECTED HUMAN RIGHTS ISSUES	62 - 107	22
A.	Education, including legal education	62 - 67	22
B.	Right to work	68 - 69	23
C.	Rights to the environment and to sustainable development	70	23
D.	New laws and practices	71 - 74	24
E.	Courts and their independence	75 - 82	25
F.	Military and human rights	83 - 87	27
G.	Prisons and detention	88 - 92	29
H.	Media and freedom of expression	93 - 98	31
I.	Immigration, law and minorities	99 - 101	33

CONTENTS (continued)

		Paragraphs	Page
J.	International human rights	102 - 103	34
K.	Non-governmental organizations	104 - 107	34
X.	RECOMMENDATIONS	108 - 185	35
A.	Right to health	108 - 111	35
B.	Cultural rights	112 - 113	36
C.	Education, including legal education	114 - 120	36
D.	Right to work	121 - 123	38
E.	Rights to the environment and to sustainable development	124	38
F.	New laws and practices	125 - 131	39
G.	Judicial independence and the rule of law	132 - 141	41
H.	Fair and open trial	142 - 144	43
I.	Rights of appeal and review	145 - 147	44
J.	The police and the military	148 - 151	45
K.	Prisons and other custodial detention	152 - 161	45
L.	Press law and freedom of expression	162 - 166	48
M.	Right to be elected	167	49
N.	Vulnerable groups, including women, children, the elderly and minorities	168 - 172	49
O.	Commission on Human Rights and Reception of Complaints of the National Assembly	173 - 174	52
P.	Ratification of and reporting under international instruments	175 - 177	52
Q.	Security issues	178 - 180	53
R.	Ongoing technical support and assistance	181 - 185	54

CONTENTS (continued)

Page

Annexes

I. Programme of the second mission of the Special Representative of the Secretary-General for human rights in Cambodia, 26-28 May 1994 56

II. Programme of the third mission of the Special Representative of the Secretary-General for human rights in Cambodia, 16-30 July 1994 57

III. Human rights recommendations - 1994 61

IV. Recommendations on land-mines 64

ABBREVIATIONS

CPP	Cambodia People's Party
FUNCINPEC	Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique et Coopératif (National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia)
ICRC	International Committee of the Red Cross
ILO	International Labour Organization
KPNLAF	Khmer People's National Liberation Armed Forces
NADK	National Army of Democratic Kampuchea
PDK	Party of Democratic Kampuchea
RCAF	Royal Cambodian Armed Forces
UNHCR	Office of the United Nations High Commissioner for Refugees
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNTAC	United Nations Transitional Authority in Cambodia
UNV	United Nations Volunteers
WFP	World Food Programme
WHO	World Health Organization

I. INTRODUCTION

1. By its resolution 48/154 of 20 December 1993, entitled "Situation of human rights in Cambodia", the General Assembly welcomed the elections of May 1993 and the inauguration of the Government of the Kingdom of Cambodia. After taking note of Commission on Human Rights resolution 1993/6 of 19 February 1993, the Assembly welcomed the establishment in Cambodia of an operational presence of the Centre for Human Rights of the Secretariat:

(a) To manage the implementation of educational and technical assistance and advisory services programmes, and to ensure their continuation;

(b) To assist the Government of Cambodia established after the election, at its request, in meeting its obligations under the human rights instruments recently adhered to, including the preparation of reports to the relevant monitoring committees;

(c) To provide support to bona fide human rights groups in Cambodia;

(d) To contribute to the creation and/or strengthening of national institutions for the promotion and protection of human rights;

(e) To continue to assist with the drafting and implementation of legislation to promote and protect human rights;

(f) To continue to assist with the training of persons responsible for the administration of justice.

2. Furthermore, the General Assembly requested the Secretary-General to assure the protection of the human rights of all people in Cambodia.

3. It is worth recalling that, pursuant to the request made by the Commission on Human Rights in its resolution 1993/6 to ensure a continued human rights presence in Cambodia after the expiry of the mandate of the United Nations Transitional Authority in Cambodia (UNTAC) including, through the operational presence of the Centre for Human Rights, the Centre established its Cambodia office at Phnom Penh on 1 October 1993.

4. In the same resolution, the General Assembly welcomed the appointment by the Secretary-General (on 23 November 1993) of a Special Representative for human rights in Cambodia, Justice Michael Kirby from Australia, to undertake the tasks set out in Commission on Human Rights resolution 1993/6. These tasks include:

(a) To maintain contact with the Government and people of Cambodia;

(b) To guide and coordinate the United Nation human rights presence in Cambodia;

(c) To assist the Government in the promotion and protection of human rights.

The General Assembly also requested the Secretary-General to report to it at its forty-ninth session on the role of the Centre for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights and on any recommendations made by the Special Representative on matters within his mandate.

5. The present report is submitted in accordance with that request. The report consists of two parts, one containing the report and recommendations of the Special Representative, and the other, contained in an addendum to the present document (A/49/635/Add.1) on the activities of the Centre for Human Rights in Cambodia.

II. MISSION TO CAMBODIA OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL

6. The Special Representative conducted his first mission to Cambodia from 21 to 28 January 1994. As requested by the Commission on Human Rights in its resolution 1993/6, he submitted a report to the Commission at its fiftieth session in February 1994. 1/ The report contains an historical overview of Cambodia and political developments during 1992 and 1993; an analysis of the situation of human rights in Cambodia; detailed information on the programme and outcome of the first mission of the Special Representative; and conclusions and recommendations of the Special Representative to the Government of Cambodia on a number of human rights issues. The report was translated into Khmer by the Centre for Human Rights and was widely distributed to governmental departments, Cambodian non-governmental organizations and interested individuals.

7. The present report is based on the findings of the Special Representative on his second and third missions to Cambodia, as well as on his ongoing observation and on information provided by the Cambodia office of the Centre for Human Rights.

8. The Special Representative visited Cambodia for the second time from 26 to 28 May 1994. On that occasion, he met with the Cambodian Ministers of Justice and of Information, the acting Chairman of the National Assembly, the Chairman of the Commission on Human Rights and Reception of Complaints of the National Assembly and the legal expert attached to the Council of Ministers of the Government of Cambodia. He also met with the representative of the Secretary-General in Cambodia, Mr. Benny Widyono, and representatives of United Nations agencies and other international organizations based in Cambodia; and with representatives of the diplomatic corps, Cambodian human rights non-governmental organizations and the Khmer Journalists Association. The Special Representative also visited Police Judiciare (PJ) prison in Phnom Penh and held consultations with staff of the office of the Centre for Human Rights in Cambodia.

9. The Special Representative then travelled to Geneva, where from 29 May to 3 June 1994 he attended a meeting of Special Rapporteurs, Representatives, Experts and Chairpersons of Working Groups of the Commission on Human Rights to discuss matters of common concern for the implementation of their respective mandates and ways to enhance coordination among the various procedures. He met with the United Nations High Commissioner on Human Rights, the Assistant

Secretary-General for Human Rights and staff of the Centre for Human Rights. He also met with a number of interested delegations and held consultations with representatives of United Nations bodies and agencies involved in Cambodia, as well as international and Cambodian non-governmental organizations represented in Geneva. The practice established by the Special Representative in connection with his missions to Geneva and the session of the Commission on Human Rights, of consulting with a wide range of (both governmental and non-governmental) international actors interested and/or active in the field of human rights in Cambodia has proved to be very useful for the purpose of: (a) encouraging and facilitating the regular exchange of information on human rights activities implemented or planned in Cambodia; (b) enhancing coordination and cooperation especially within the United Nations system; and (c) bringing to the attention of the Special Representative human rights issues in Cambodia relevant to his mandate of particular concern to the international community.

10. The third mission of the Special Representative was conducted from 16 to 30 July 1994. The Special Representative travelled to Kompong Som (Sihanoukville) and Battambang provinces, where he visited the provincial courts and prisons and met with judges and prosecutors, the provincial police, governors and other local authorities. In the prisons, he discussed extensively with the prisoners their conditions of detention. He also met with representatives of Cambodian non-governmental human rights organizations having offices at the provincial level. At Battambang, the Special Representative devoted particular attention to the issue of land-mines, was briefed by specialized groups and spent one day with de-mining teams at work. A one-day visit to displaced ethnic Vietnamese persons at Chrey Thom, on the border with Viet Nam, was organized during his mission. Accompanying the Special Representative were the Representative of the Secretary-General in Cambodia and representatives of the Centre for Human Rights, the Office of the United Nations High Commissioner for Refugees (UNHCR), the World Food Programme (WFP), the International Committee of the Red Cross (ICRC), the Ligue Cambodgienne pour la promotion et la défense des droits de l'homme, the Cambodian Institute of Human Rights, the Vietnamese Association and international and Cambodian press, as well as officials of the Government of Cambodia.

11. In Phnom Penh, the Special Representative had meetings with the Minister for Foreign Affairs, the Secretary of State for Women's Affairs, officials of the Ministry of Interior, members of the Legislative, Interior, Human Rights, Education and Health Commissions of the National Assembly. Several meetings were held, both collectively and individually, with representatives of the diplomatic corps at Phnom Penh, United Nations agencies and international and Cambodian non-governmental human rights organizations, including specialized groups on minorities, women and the elderly, as well as religious groups. The Special Representative had extensive consultations with staff of the Centre for Human Rights. During his mission, he gave a press conference on the issue of land-mines and participated in a panel discussion on human rights with representatives of the international and Cambodian non-governmental organizations community. A detailed programme of the second and third missions is contained in annexes I and II to the present report.

III. MISSION TO CAMBODIA OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

12. Mr. José Ayala-Lasso, the United Nations High Commissioner for Human Rights, visited Cambodia from 24 to 26 July 1994. The High Commissioner, accompanied by the Special Representative of the Secretary-General for human rights in Cambodia, met with the acting Head of State and the First Prime Minister. An unprecedented interministerial meeting, including the Ministers of Information and Justice, the Co-Ministers for Interior and Defence and a representative of the Minister for Foreign Affairs, was organized to discuss human rights issues of common concern to the ministries represented. The High Commissioner discussed the operation of the Cambodia office of the Centre for Human Rights, the technical cooperation programme being implemented by the Centre with the Government, and the protection of human rights in Cambodia, including ensuring effective guarantees for freedom of expression, the independence of the judiciary, the role of the military in recent cases of human rights violations, the conditions of prisons and the treatment of ethnic Vietnamese. The High Commissioner also met with Cambodian non-governmental human rights organizations, representatives of United Nations agencies in Cambodia, members of the international and Cambodian press and staff of the Centre for Human Rights (the programme of the visit of the United Nations High Commissioner for Human Rights is contained in A/49/635, annex II).

IV. COOPERATION BY THE GOVERNMENT

13. In all meetings held with ministers and senior officials of the Government of Cambodia, members of the National Assembly, police and prison authorities, including at the provincial level, the Special Representative greatly appreciated the openness of the Cambodian authorities in recognizing the difficulties still faced by Cambodia in ensuring that human rights were promoted and protected in conformity with the Constitution, the international human rights norms binding on Cambodia and the laws of the country. The shortcomings, from the human rights perspective, of the Cambodian legal order and of the national system for the administration of justice were, without exception, recognized in all contacts of the Special Representative with Cambodian officials. The problems caused for the respect of human rights by the continuing political instability, the deterioration of the security situation, the interference of the military power with the civilian sphere and the difficulty in asserting the rule of law were also openly acknowledged. During his mission in Cambodia, the High Commissioner also expressed his appreciation for the spirit of frankness and cooperation showed by the Cambodian authorities. The Special Representative expressed his appreciation and gratitude for the above attitude of the Government of Cambodia. The recognition of identified problems is the first step on the path to their solution. The Special Representative will continue to provide his assistance to contribute to the success of the Government's efforts to ensure full protection of human rights in Cambodia.

V. THE CONTINUING CHALLENGE TO THE SECURITY SITUATION

14. Since the beginning of 1994, the resumption of fighting with the Party of Democratic Kampuchea (PDK)/National Army of Democratic Kampuchea (NADK) 2/ in several provinces and conflicts within the two main parties of the coalition Government and between them and the King have led to increased political instability and a related deterioration of the security situation in the country. These tensions culminated in early July with what was officially described as an "aborted coup attempt". These events have inevitably affected the confidence and hope which prevailed in both the Government and society after the May 1993 elections. They have reintroduced scepticism, uncertainty and, in some cases, fear.

15. Following the formation of the newly elected Royal National Government of Cambodia in October 1993, NADK increased its military pressure on government targets in western Cambodia in an effort to enhance its bargaining power and to force a negotiated solution whereby it would be integrated with the Government without having to make vital concessions. Such demands were rejected by the Government. Contacts between the Government, King Norodom Sihanouk and the PDK 3/ took place at Bangkok and Beijing but to no avail, because of the unreconcilable positions of the parties involved. Meanwhile, the guerrilla's violent actions included the blowing-up of dozens of bridges, mostly in western Cambodia, and attacks against village and commune administration, police or military offices. Several murderous attacks on civilian trains were also carried out and Vietnamese civilians have continued to be the victims of racial violence.

A. Government offensives against strongholds of the National Army of Democratic Kampuchea

16. In response to growing NADK military pressure, the newly formed Royal Cambodian Armed Forces (RCAF) launched two major offensives in January and March 1994. These were aimed at capturing two main strongholds of NADK: its northern command in Anlong Veng district (Siem Reap-Otdar Meanchey province), and Pailin, the guerrilla's tactical headquarters since 1992. The latter is a district town in an area rich in precious stones adjacent to the border with Thailand. It is located 70 kilometres south-west of Battambang, the second largest town of the country. It was captured by NADK in late 1990.

17. Anlong Veng was never captured by government forces. Pailin was taken, but for a short period only. Within weeks, NADK regrouped its forces, counter-attacked and retook its positions, forcing RCAF to withdraw. NADK forward units, for the first time since they captured Pailin in late 1990, advanced to within 13 kilometres of Battambang on Highway 10. Their thrust was eventually blocked by RCAF, which gradually repelled the guerrillas to Pailin. In the counter-attack, Pailin was reportedly bombed by government helicopters. In purely military terms the net result of these government offensives was the re-establishment of the status quo ante.

18. The Government benefited very little, if at all, from these military initiatives. On the contrary, in human, political, military and economic terms,

they seriously damaged the internal and external perception of the Government and its armed forces. Domestically, these offensives resulted in the killing of an estimated 500 government soldiers and the injuring to more than 1,000 others, for no ultimate military, territorial, political or economic gain. Financially, they cost the Government an estimated several million dollars. They also contributed to exacerbating internal tensions within the parties in the government coalition and between them. Abroad, they projected the image of a country again engulfed by war, with its negative repercussions on tourism, foreign development assistance and investments.

B. Resumption of full-fledged warfare

19. The most direct effect of the foregoing operations on the security situation was an intensification of warfare. Fighting had been kept at a relatively low level after the elections owing to a relative military restraint observed by both sides as contacts and manoeuvres were taking place between the guerrillas and the Government. In direct response to the RCAF offensives, PDK remobilized its forces and resumed its military and political activities throughout the country. These were aimed at destabilizing the government administration in the villages and communes and replacing it with a political authority under the control of the guerrillas. The break-up of the peace talks in May 1994, the adoption of the law on the outlawing of the "Democratic Kampuchea" group in July (see paras. 72-74), and the government instruction to the PDK delegation at Phnom Penh to leave the country confirmed the rupture and the return to Cambodia to a level of military fighting close to that which prevailed before the cease-fire in early 1991.

20. Evidence from both sides of the conflict shows that combatants and civilians are tired of the war and see no reason to continue the fight. Evidence from NADK-controlled zones continues to show that the population there, which to a large extent continues to be captive, ardently desires to return to its villages. However, because the villages are in government-controlled areas, many villagers are reported to be afraid of reprisals upon return and are uncertain about their ability to find a plot of land to build a house and make a living. Meanwhile, civilians in these zones continue to constitute a reservoir of manpower for the guerrillas. They are used at the convenience of the guerrillas to serve in military operations.

C. New mines laid by both sides

21. Renewed fighting in western Cambodia has also provided the context for the laying of new anti-personnel mines by both sides to the conflict. This is particularly the case in the district of Rattanak Munduol, which is the most heavily mined area of the province. An estimated 40,000 inhabitants of the district had to evacuate their villages to escape fighting, which ravaged almost the entire district. They sought, with 20,000 others, temporary shelter in the suburbs of Battambang and along the roads of the province. The gradual return of the population to what was left of the villages after the fighting was marked by the death and injuries of several villagers as a result of newly laid mines.

The Special Representative spoke to many of these people during his third mission.

D. Serious shortcomings of the Royal Cambodian Armed Forces

22. The RCAF offensives in Anlong Veng and Pailin (see paras. 16-18 above) have revealed the serious structural shortcomings of RCAF which have direct implications for the human rights situation in Cambodia. These shortcomings include comparatively poor organization, planning, training and leadership. On the battlefield, this has resulted in numerous lives being lost or endangered unnecessarily.

23. Serious weaknesses also include widespread corruption reported within the military forces. One aspect of the corruption is the large numbers of "ghost soldiers" whose salaries are pocketed by others. Soldiers, generally poorly paid, are often not paid for months by their officers. Their salaries are reportedly paid to their unit commanders.

24. The shortcomings include the reported involvement of senior regional and provincial military officers and their units in criminal activities. This was illustrated in Battambang province by the administration of secret detention centres used for detaining abducted civilians, extorting money, asserting illegal power and for executing those detained. These officers are also allegedly controlling gambling and prostitution networks, as well as informal taxation checkpoints along main highways and waterways.

25. These structural problems are also illustrated by an inflated number of officers in RCAF. An estimated 60 per cent of the 120,000 troops are middle- and high-ranking officers. The latter include over 2,000 generals.

E. Human rights implications

26. These features have serious implications for the human rights situation in Cambodia. Military personnel have been implicated in a large number of human rights abuses throughout the country. Recent instances have included death threats to judges and pressure on courts in Phnom Penh, Sihanoukville and Battambang; the attack on Battambang provincial prison to secure the release of a convicted soldier; the abduction and execution of civilians for extortion in secret detention facilities; the frequent summary execution of villagers who oppose or attempt to resist army abuses; and the recent wave of forced military conscriptions in several districts of Battambang and Banteay Meanchey provinces.

27. These activities exemplify a situation in which, in many cases, members of the armed forces in Cambodia continue to enjoy wide and effectively uncontrolled powers of arrest, detention and even execution in disregard of existing laws, including internal army regulations, as well as international human rights and humanitarian law. In many parts of the country, village communities, deprived of any recourse to civil protection, experience, on a daily basis, the "law of the gun". Evidence gathered by the Centre for Human Rights in several provinces shows that often the police, the civilian authorities and the courts and judges,

are afraid and unable to take effective, or any, measures to curb the abusive and arbitrary practices by the military and to bring them within the discipline of law.

28. The intensification of fighting with NADK in several front-line provinces is strengthening the influence of the army which often applies a de facto regime of military rule in these regions. This may be further complicated by the adoption by the National Assembly on 7 July 1994 of the law on the outlawing of the "Democratic Kampuchea" group. This law does not contain a definition of who is a member of the proscribed Democratic Kampuchea group. It may, in practice, further strengthen the power and authority of the military. Despite several amendments providing for safeguards against excessive or unjust implementation of the law, with any resumption of military operations, this law, if implemented, could result in the widespread arrests and detention of persons suspected of being "Khmer rouge" supporters or sympathizers. It will be necessary for this situation to be carefully monitored and vigilantly reported by the Special Representative and by the Centre for Human Rights (see paras. 127 and 128 below).

29. An order signed on 17 June 1994 by the two co-Prime Ministers raised fears of a further strengthening of the economic, and thus political, influence of the military forces within the Government. The order revoked all pre-existing procedures established to ensure control by the central Government of timber exports. It entrusts to the Ministry of Defence the responsibility for the control of timber exports and revenue and for adopting new procedures (see para. 87 below). The order was reportedly revoked by the Government in early August 1994.

F. Political instability and the challenge to security

30. From May 1994 onward, the political atmosphere in Phnom Penh began to deteriorate. The failure of the peace talks at Pyongyang in late May, the failure of the King's attempt to influence government politics and the related growing tensions within the parties forming the Government and between these parties added political uncertainty to the instability caused in several provinces by the resumption of fighting. Fractures arising from factional disputes within the two main parties to the coalition 4/ reappeared. They were illustrated by the events of 6 July 1994, which were officially described as an "aborted coup attempt". Three high-ranking police officers, including the former Minister of Interior and National Security, the Under-Secretary of State of the Ministry of Interior, and a top police officer, along with 14 Thai nationals suspected of involvement, were arrested in the wake of the incident. Another suspect, Prince Norodom Chakrapong, King Sihanouk's son, was allowed to leave the country. At the time of writing of the present report, 5 of the 14 Thai suspects had been released. The 12 other suspects, including 9 Thai nationals, were still being held virtually incommunicado and without any formal charge.

31. These factors of instability are not conducive to the establishment of institutions designed to restore the rule of law and to ensure the protection of basic human rights in Cambodia. They continue to pose a major challenge to the

security situation in Cambodia. They provide the context for the possible curtailment of recently acquired rights and freedoms. This was evidenced by the restrictions imposed by the Government on the press in July following reporting about the "aborted coup" and the alleged internal tensions within the Government. These measures, which included the jailing of the editor of a popular newspaper and direct pressures against several newspapers, substantially silenced the Cambodian press on these issues. Until these tensions are peacefully resolved, they will continue seriously to undermine the positive legacy of the transitional period and the efforts undertaken by the Government, since its formation, to strengthen respect for human rights.

VI. CRIMES, ABUSES AND ATTACKS BY MEMBERS OF THE PARTY OF DEMOCRATIC KAMPUCHEA ("KHMER ROUGE")

32. In response to the RCAF offensives against its bases in Anlong Veng and Pailin, the NADK high command reportedly instructed its field units throughout the country to prepare for a new phase of warfare against the Government. NADK reportedly remobilized its forces, recruited fresh combatants, increased old units, formed new units and resumed its traditional military and political activities. These consist primarily of destabilizing the Government's political and security administration at the village and commune levels by military attacks and replacing that administration with a political authority under its own control. Following its strategy aimed at isolating western provinces, NADK has sought to cut off and disrupt communication lines. This has resulted in the blowing up of numerous bridges along highways 5 and 6, the mining of roads and attacks against road convoys and civilian trains. The NADK has also stepped up its racist campaign (aiming effectively at "ethnic cleansing") against Vietnamese civilians.

A. Forced disappearances

33. On 23 September 1993, at least 17 soldiers from a former Khmer People's National Liberation Armed Forces (KPNLAF) division 1 stationed at Sok Sann in Western Pursat province, were abducted by NADK elements as they were evacuating their former base to rejoin government forces. In April 1994, when it recaptured the base, NADK captured a group of 18 policemen dispatched to Pailin from Battambang. Since their disappearance, none of these two groups of persons have reappeared. It is feared that they have been executed.

B. Abduction of foreigners

34. A new feature of NADK activities appears to be the abduction of foreign nationals, particularly Westerners. It is still unclear whether these abductions reflects a centrally directed policy or results from local initiatives. Similarly, it is unclear whether this policy, if it exists, includes the extortion of ransom and/or the execution of the victims. So far, none of the victims has been a political target as such.

35. During the transitional period, NADK units abducted several United Nations officials who had ventured, without permission, into zones beyond United Nations control. All were subsequently released unharmed. Evidence at the time showed that there was no policy to execute captured UNTAC personnel. Since the beginning of 1994, four groups of foreigners are known to have been abducted in Cambodia. In two instances only can the abductions be conclusively attributed to NADK. These include the kidnapping in April 1994 of a relief worker of the aid organization Food for the Hungry and that of three tourists, nationals of Australia, the United Kingdom of Great Britain and Northern Ireland and France, following a train attack on 26 July 1994. The relief worker, a female national of the United States of America, was eventually released after 40 days detention in exchange for a substantial aid package. In the second case, the three tourists were kidnapped during the ambush of a civilian train which resulted in the killing of 16 passengers. Both kidnappings were carried out in Kampot province, apparently by elements from NADK 405 Division. In both cases their captors asked for a ransom in exchange for the release of the hostages. In the third case, two nationals of Australia and one national of the United Kingdom were kidnapped north of Sihanoukville on 11 April 1994. Serious doubts remain as to the identity of those responsible, although Ministry of Interior officials responsible for the investigation have blamed the NADK 27 Regiment, which operates in the area. No convincing evidence has, however, been produced to corroborate that claim. It has not been established that NADK was responsible for their abduction and disappearance. Since their kidnapping, the three victims have not been seen again. In the fourth case, a Belgian couple reportedly disappeared on 21 May 1994 near the Thai border opposite Cambodia's northern Preah Vihear province. Nothing is known about their whereabouts since their disappearance.

36. This new type of activity, if confirmed and if it is established that it reflects centrally directed instructions, would constitute a further serious step in the NADK campaign against foreign support for Cambodia. It is likely to have the effect of discouraging foreign assistance to the Government, tourism and investors. It also hampers crucial development work in the countryside. It would also illustrate and confirm what appears to be a gradual evolution of the activities of many NADK field units towards banditry. There is growing evidence that NADK attacks against villages and communes, or against trains, are accompanied by frequent, if not systematic, looting of villagers' or passengers' property.

C. Continuing crimes, abuses and attacks

37. Since the departure of UNTAC and the formation of the new coalition Government, NADK field units have been positively implicated in many confirmed instances of serious crimes and abuses of human rights. These include the alleged execution of soldiers captured in combat and the massacre of Vietnamese civilians. NADK units have also been implicated in the rape of female villagers, in the laying of anti-personnel mines, and in using village communities as human shields to protect themselves from enemy shelling. Forced conscription of rice and ammunition porters has resumed since the beginning of the year. At least on one occasion, several NADK combatants were allegedly executed by their commanders for reasons which remain unclear.

D. "Ethnic cleansing"

38. The racist campaign of NADK directed against Vietnamese civilians in Cambodia is continuing unabated. It appears to have been stepped up since the beginning of 1994. It deserves the attention and condemnation of the international community. PDK radio continues to carry daily broadcasts describing the alleged ongoing "colonization" of Cambodia by Vietnamese settlers. The radio accuse the "communist Vietnamese" and their "Vietnamese puppets" in Phnom Penh of sending hundreds of thousands of new settlers in Cambodia to annex Cambodia and to "destroy the Khmer nation and race". It alleges that "4 million" Vietnamese have settled in Cambodia so far and that the "colonization" continues. It broadcasts inflammatory appeals to listeners to rise against the Vietnamese.

39. More than half a dozen instances of attacks against Vietnamese communities, resulting in the killing of at least 24 villagers and the wounding of many others, have been reported in recent months. In most cases, NADK units are directly responsible for these attacks. In the largest attack, which took place on 9 April in Peam So village, Sa-ang district of Kandal province, 13 villagers, including 9 children, were cold-bloodedly massacred at night and another 25, many of whom were children, were injured. Although NADK cannot be directly implicated in this massacre, available evidence suggests that the perpetrators may have carried out the attack on its behalf. Seven suspects arrested following investigations were eventually released for "lack of evidence".

40. Other instances of racial killings implicating NADK include the reported killing of two villagers on 15 May 1994; the alleged kidnapping of four villagers on 21 May; and the reported killing of a family of five, including three children, on 3 July. These murders were all carried out in Kompong Chhnang province. This province, which has a sizeable Vietnamese fishing community, has been the scene of repeated anti-Vietnamese violence for the past two years. Other abductions, disappearances and killings of Vietnamese civilians were reported in Krachie and Kompong Cham province. None of these killings - except in the Peam So cases - have been seriously investigated by the Cambodian authorities. Nor have their perpetrators been brought to justice. It is recognized that the difficulties of doing so are not insubstantial.

E. Detention centres in zones controlled by the National Army of Democratic Kampuchea

41. NADK continues to administer detention centres in the zones under its control. One of these centres is located at Phnom Sasada, in NADK Sector 32, a region controlled by the guerrillas adjacent to the Thai border in western Battambang province. As of early July 1994, an estimated 30 persons were alleged to be held there. By June 1994, those detained there reportedly included three RCAF soldiers captured in combat, several NADK soldiers and civilians accused of having breached discipline, as well as villagers from government-controlled zones captured in the forest while cutting wood. The latter were apparently accused of illegally cutting wood in forested zones under NADK control, or of being disguised government soldiers or agents. According to the gravity of the alleged offence, detainees are either left free in the

detention facility and assigned to productive tasks outside it - such as cultivating vegetables, cutting wood or clearing new forested land for cultivation - or are shackled by one foot in rows for prolonged periods. The facility is reported to be in a barbed wire enclosure in which four makeshift roofs are set up on stilts. Detainees are living and sleeping on the bare ground without mats, blankets or mosquito nets. All were said to be sick with malaria and to suffer from skin diseases resulting from lack of hygiene and very poor sanitary conditions. Serious offenders are said to be shackled by one foot 24 hours a day and are allowed to bathe only once a month. According to a witness, a government soldier captured in combat was severely beaten by a prison chief who interrogated him. If true, these actions constitute some of the worst abuses of human rights which are occurring in Cambodia at this time. Previous attempts of the Special Representative to make contact with the representatives of PDK in Phnom Penh were rebuffed.

42. NADK units have also been implicated in several documented cases of rape. In one instance in early 1994, several female villagers were allegedly the victims of multiple rape by NADK soldiers in eastern Banteay Meanchey province. A local NADK official reportedly admitted the accusation and explained that the women had been raped in retribution for the rape of NADK female villagers in the same region by RCAF troops during military operations against NADK villages in August 1993. In another documented instance in Aek Phnom district of Battambang province in May 1994, a young village girl was abducted by a group of NADK soldiers and raped by one of them. She was held for several days in their camp before being allowed to return home.

43. In Rattanak Mundol district of Battambang province, where most of the fighting has taken place since the beginning of the year, retreating NADK forces have also been accused of laying anti-personnel and anti-tank mines, apparently to cover their retreat and hinder government forces in pursuit of them. On at least two reported occasions in Battambang and southern Banteay Meanchey provinces, whole village communities have been used as human shields by NADK units which have brought artillery pieces in the vicinity of the villages to shell government positions.

44. There is also evidence that the 25,000 civilians under NADK control in Pailin who crossed into Thailand following the Government offensive were lured back into NADK zones by their leadership. NADK cadres reportedly told them that international aid organizations would help them return to their homes in Cambodia. Instead, they were trucked back across the border to a NADK stronghold located north of Pailin. Witnesses who were part of the relocation said that a large number of children and elderly people died of dysentery and dehydration in the ill-planned move owing to the lack of water, rice and medicines. Within days, NADK cadres forcibly recruited one male porter per family in preparation of the recapture of Pailin. They were sent to the front-line as conscripts.

45. The foregoing human rights abuses and reported acts of brutality and lawlessness will cause no surprise to those familiar with the record of NADK and PDK. In 1975 and 1976 they were responsible for one of the most intensive genocides in the history of humanity. Those responsible have not been brought to justice for their crimes against humanity. During his visits to Cambodia,

the Special Representative heard numerous calls by Cambodians for the establishment of an international penal court in which the leaders of NADK and PDK could be put on trial for their crimes.

VII. HUMAN RIGHTS RECOMMENDATIONS

46. During the period since his first report, the Special Representative has regularly submitted recommendations on human rights issues to the Government of Cambodia. They have involved, in some cases, messages of appreciation for action (requiring no further action) and in others recommendations for specific follow-up. Unfortunately, difficulties arose within the Administration of the Government of Cambodia in the consideration of these recommendations. Following further discussions with ministers and officials, it is believed that these difficulties have been overcome. Annex III to the present report sets out the recommendations made between April and July 1994 with a summary of action taken. The Special Representative will, where appropriate, keep these recommendations under review.

VIII. ACTION TAKEN ON THE FIRST REPORT

47. The following is a review of the recommendations made by the Special Representative in his previous report to the Commission on Human Rights, 5/ and the action taken on them.

Paragraphs 13-16: right to health

48. There has been no significant change. A national committee on acquired immunodeficiency syndrome (AIDS) has been established and it is about to launch a national survey to determine the extent of the disease. The infrastructure and delivery of health services remain poor.

Paragraphs 17 and 18: cultural rights

49. There has been no significant change. Illicit trafficking in Khmer artifacts continues, often under the protection of legal and illegal armed groups.

Paragraphs 19-25: education, including legal education

50. There has been no significant change. Recommendations pertaining to the Cambodia office of the Centre for Human Rights have not been implemented so far owing to the non-availability of the Trust Fund. There have been commendable attempts by the Government to tackle corruption in the conduct of examinations in schools.

Paragraphs 26-32: judicial independence and the rule of law

51. There has been no significant change, although many judicial officers continue to assert independence and to resist interference. A code of judicial practice to assure independence of judiciary has not been adopted and contacts between judges and the Ministry of Justice continue to occur. The salaries of judges have not been increased. Copies of laws are not supplied to the judges immediately upon adoption. The law on the Supreme Council of the Judiciary has not been adopted to ensure independence of judiciary and staffing of the courts. The recommendations pertaining to the Cambodia office of the Centre for Human Rights have not been fully implemented owing to the non-availability of the Trust Fund. In general, judicial independence has faced increasing challenges, particularly from the military and political authorities, since the last report and the challenges to the establishment of the rule of law have increased manifold. This has resulted in elements of lawlessness, arbitrary violence and the denial of basic human rights described below (see paras. 77-82 below).

Paragraphs 33 and 34: fair and open trial

52. There has been no significant change. Derogations from Cambodian laws relating to arrest, detention and trial continue to occur. Detentions without trial in excess of four months continue, contrary to the law. Several non-governmental organizations have become seriously involved in providing representations on behalf of accused persons, but have been thwarted in their duties by continued lack of access to the accused persons, lack of adequate time to prepare for trials and reluctance on the part of courts to allow representation in all cases, particularly civil cases, purportedly upon instructions from the Ministry of Justice. In general, the implementation of the legal provisions remains patchy.

Paragraphs 35-39: new laws: necessary practices

53. There have been some changes. A constitutional council and a supreme council of the judiciary have not been established and judicial remedies remain to be created. A law on land has not been adopted and arbitrary and forced evictions continue to occur. Rules of court have not been clarified with the result that the courts continue to act on the instructions of the Ministry of Justice. The legal status of non-governmental organizations, including their privileges and duties, has not been clarified. On the other hand, an immigration law has been drafted and is currently being considered by the National Assembly and the draft press law is expected to be submitted for adoption soon. The drafting of laws continues to follow a secret procedure, even though the Government has permitted non-governmental organizations to give opinions on drafts of laws.

Paragraphs 40-42: the police and the military

54. The Centre for Human Rights has implemented some training programmes for police. Training activities will be intensified when programme funds become available. There has been no law governing the use of firearms and dangerous weapons continue to be readily available and used.

Paragraphs 43-51: prisons and other custodial detention

55. There have been several positive changes, although the overall situation remains far from adequate (see paras. 88-92 below). Prosecutors have begun visiting prisons, although not on a regular basis, and not to look into individual complaints. Dark cells and shackles do not appear to be used in official prisons. In some places, the dark cells have been demolished. Defenders, non-governmental organizations and in some cases the Centre for Human Rights have faced difficulties in gaining access to prisons. Recently, the Special Representative himself faced some initial difficulties in gaining access to a prisoner in PJ prison in Phnom Penh. Unauthorized or secret prisons are maintained, although there have been some recent attempts by the Government to tackle this issue. Owing to the initiative of the Commission on Human Rights and Reception of Complaints of the National Assembly, the Government has agreed to provide for separate detention of juveniles and adults, men and women, and accused persons and convicts. The daily supplements for prisoners have been increased to 1,000 riels a day per prisoner, which is still considered inadequate. Access of prisoners to medical services and facilities remains poor. Most prisoners are ignorant of their rights and the disposition of their cases. The Centre has conducted a countrywide training and assessment programme of the prisons, with the full cooperation of the Ministry of Interior.

Paragraphs 52-55: press law and freedom of expression

56. Positive developments have taken place with respect to the draft press law. The draft was prepared by the Ministry of Information and was reviewed by the Centre for Human Rights at various stages. Finally, as it stands now, the draft appears to be fully in conformity with international human rights standards. The draft has not yet been adopted by the National Assembly. The Centre for Human Rights organized a seminar on the draft law and freedom of expression according to the recommendations. The media in Cambodia have, however, faced many threats and intimidations. As a result, while the draft law itself may be in conformity with international human rights standards, the actual freedom enjoyed by the media has, in recent times, fallen below minimum standards. The media have also revealed varying degrees of lack of professionalism in matters of accuracy and taste (see paras. 93-98 below).

Paragraphs 56-66: vulnerable groups

57. With respect to women, the Secretariat for Women's Affairs is currently reviewing the draft women's code. The Centre for Human Rights is assisting the Secretariat in drafting and reviewing the code with the view to ensuring its conformity with international human rights standards (see para. 168 below). The Government has issued a decree on the establishment of a National Committee on Children and a Juvenile Delinquent Centre. The National Assembly is currently considering an immigration law and a nationality law is said to be in the course of preparation. The immigration draft, however, does not provide for the minimum guarantees recommended in the first report of the Special Representative 1/ and also by the Centre. The draft, as it stands, falls short of international human rights standards (see para. 99 below). The Commission on Human Rights and Reception of Complaints of the National Assembly has not drafted any legislation forbidding discrimination against persons specifically

on the grounds of race or ethnic origin. The provisions in chapter 3 of the Constitution itself that discriminate against persons who are not Khmer nationals have also not been amended.

Paragraphs 67-74: Commission on Human Rights and Reception of Complaints of the National Assembly

58. The Commission has performed remarkably well, despite facing many obstacles. It has taken the initiative in suggesting reforms to the Government in the areas of prisons, children's rights and non-governmental organizations. The members of the Commission, particularly the chairperson, have taken the lead in promoting democratic debates in the National Assembly during discussions on drafts of laws. The Commission has also intervened in many cases of human rights complaints, but the Government has not effectively and speedily implemented the Commission's recommendations in many cases. The Commission continues to face many problems, including a lack of adequate staff, equipment and resources and of political support. The Commission has also been prevented from reviewing crucial drafts of laws owing to the procedures of the National Assembly and it is hoped that since the procedures are now being reviewed, the Commission will be able to play a more active role in the review of drafts of laws. The Commission is planning to publish a newsletter, subject to funding. At the suggestion of the office of the Centre for Human Rights in Cambodia, the Commission has made contacts with parliamentary human rights bodies throughout the world. The possibility of establishing an independent agency for the promotion and protection of human rights appears remote at present and the Commission is expected to play a more active and independent role. The Centre is planning a workshop on the operation of parliamentary human rights bodies in cooperation with the Raoul Wallenberg Institute and the Inter-Parliamentary Union during the latter part of 1994.

Paragraphs 75-79: security

59. The security situation has worsened significantly (see paras. 14-29 above). The failure of the peace initiative between the Government and PDK culminated in the passage by the National Assembly of the law outlawing the "Democratic Kampuchea" group. There is no indication as yet that the Government and armed forces of certain countries have desisted from support, explicit or tacit, including commercial and business activities, of those who have failed or refused to agree to the peace initiatives. As a result, low-intensity warfare continues to ravage the countryside and to cause suffering. The renewed conflagration has resulted in a vicious cycle of mine-laying, especially in areas that had recently been de-mined. The indiscriminate use of land-mines, particularly anti-personnel mines, by both sides to the conflict continues to have devastating consequences for the human rights of individuals and the survival of the society. There has been no ban on the import and use of mines by the Government. The worsening of the security situation has been exacerbated by the aborted coup d'etat on 2 July 1994. There is a heightened fear of unrest. Some persons and groups who oppose the evolution of the country towards democracy are using the climate of instability to clamp down on basic freedoms.

Paragraphs 80-82: conduct of peace-keeping and other United Nations officials

60. Following the submission of his report to the Commission on Human Rights, 1/ the Special Representative wrote to the Secretary-General and called to his attention the need to develop a code of conduct for United Nations peace-keepers and machinery for its enforcement. The Secretary-General subsequently informed the Special Representative that the United Nations was developing guidelines for the conduct of United Nations peace-keepers, and a code of conduct for soldiers and military observers.

Paragraphs 83-89: international obligations

61. An Inter-Ministerial Committee on Reporting Obligations has been established according to the recommendations. The Centre for Human Rights continues to assist this Committee in the performance of its duties (see A/49/635/Add.1, para. 32).

IX. UPDATE ON SELECTED HUMAN RIGHTS ISSUES

A. Education, including legal education

62. During his last mission to Cambodia, the Special Representative noted a number of positive developments in the field of education. He welcomes the initiative of the Government to introduce procedures for the objective external marking of secondary examinations designed to reduce corruption and to raise pre-university standards and university entrance.

63. The Special Representative particularly welcomes the strong support expressed by many representatives of the Government of Cambodia for the teaching of human rights to schoolchildren and to the general population. Once again, the first Prime Minister, Prince Norodom Ranariddh, in his meeting with the United Nations High Commissioner for Human Rights and the Special Representative, endorsed the need for general human rights information and education. In this regard, he welcomes the initiative of United Nations agencies, particularly the United Nations Educational, Scientific and Cultural Organization (UNESCO), which has organized training courses and assisted in the provision of curriculum materials for teaching human rights in schools in Cambodia.

64. The Special Representative notes with particular appreciation the valuable work of Cambodian non-governmental organizations towards integrating human rights into the educational curriculum. Of special note in this respect is the plan of the Cambodian Institute of Human Rights to publish a book about human rights teaching methodology for distribution to Cambodia's 70,000 schoolteachers.

65. The Special Representative welcomes the contributions of France to legal education and specifically to the education of the judiciary in Cambodia. He fully supports the efforts of the highly expert judicial officers from France who have assisted in the selection and training of Cambodia's judges. Particularly to be applauded is their contribution to the control on numbers and

the assurance of quality in selection, by tests conducted using procedures designed to prevent favouritism and corruption.

66. The Special Representative also welcomes the contribution of the United States of America, the Asia Foundation and others to legal education in Cambodia. He notes with satisfaction the establishment of a certified course in contract law. He participated with pleasure in the group of international advisers providing legal expertise to various governmental agencies. He encourages the enlargement of this group to include appropriate Cambodian lawyers and paralegal officers. He welcomes the consideration of plans for a second law school in Cambodia conforming to international standards.

67. The Special Representative welcomes the ongoing discussions between the Centre for Human Rights and the Faculty of Law and Economics at Phnom Penh for the conduct of a series of human rights seminars and the provision of a number of internships to students of the Faculty and training to teaching assistants. He also welcomes the initiative of the Centre to provide lectures on human rights at the Royal School of Administration at Phnom Penh.

B. Right to work

68. The Special Representative welcomes the joint initiative of the United Nations Development Programme (UNDP) and the International Labour Organization (ILO) designed to promote the generation of employment in Cambodia. At Battambang and later at Phnom Penh he received information from both of these organizations concerning their programmes. This has involved the selection of target employment projects and population groups. It has included concentration on road building, irrigation and similar activities, including the expansion of small businesses. Groups specially targeted have included returning refugees, internally displaced persons, female heads of families and demobilized and disabled military personnel and other persons affected by war. The provision of work to such groups is essential to the rebuilding of the civil society in Cambodia.

69. Two special problems were drawn to the notice of the Special Representative in connection with the above activities. The first is alleged instances of enforced conscription into the army of recruits participating in the training courses at the ILO Provincial Training Centre at Battambang. The United Nations High Commissioner for Human Rights and the Special Representative were assured by the responsible minister that this practice was contrary to government policy.

C. Rights to the environment and to sustainable development

70. The Special Representative considers that the right to sustainable development, which is based on the full realization of the potentialities of the human person, is necessary to improve the overall promotion and protection of human rights in Cambodia. In order to achieve such a right to development, it is necessary that the right to the environment be secured. The promotion and protection of human rights cannot be dismissed from the overall social and

environmental context within which it occurs. The Special Representative is therefore concerned about the following with a view to enhancing the full realization of the right to development:

(a) The lack of a working national plan for the safeguarding of Cambodia's natural resources;

(b) The continual and illegal plundering of natural resources, including by logging and mining by various armed groups associated with or tolerated by legal and illegal armed forces;

(c) The recent decision to grant exclusive rights to the armed forces to handle timber exports, creating a self-financing army outside the framework of the national budget (see para. 87 below for details);

(d) The challenge to the environment and to the lifestyles of the people by growing the ooya plant in abundance in the lakes and waterways of Cambodia, resulting in the destruction of fish stocks.

D. New laws and practices

71. Most of the new laws for which the Special Representative called in his first report have not been enacted, including those relating to the following:

(a) The establishment of the Constitutional Council as envisaged by the Constitution;

(b) The establishment of the Supreme Council of the Judiciary as envisaged by the Constitution;

(c) The press;

(d) The peaceful settlement of land claims;

(e) Associations;

(f) Immigration, nationality and refugees.

72. The absence of those and other laws continues to contribute to many of the challenges to the rule of law in Cambodia. The Special Representative acknowledges the full opportunity which he and the Centre for Human Rights have enjoyed to make comments to the Government of Cambodia and the National Assembly on particular laws, notably the draft press law and the draft immigration law. The Special Representative welcomes the assurance that representations have been taken into account in the redrafting of such laws.

73. One measure that was enacted by the National Assembly on 7 July 1994 was the law on the outlawing of the "Democratic Kampuchea" group. The purpose is to outlaw members of the Khmer Rouge and their armed forces. They are deemed "offenders against the Constitution and laws of the Kingdom of Cambodia". Provision is made, following conviction, for sentences of between 20 and

30 years' imprisonment or for life imprisonment. An amnesty is provided for six months to permit those affected to "return to live under the authority of the Royal Government in the Kingdom (...) without facing punishment for crimes they have committed" (art. 5). Only leaders of the "Democratic Kampuchea" group are excluded from this amnesty (art. 6). All property of the party of the "Democratic Kampuchea" group and of offenders is forfeited to the Government of Cambodia.

74. During the passage of the proposed law through the National Assembly, important amendments were introduced to the bill which became law:

(a) Defining more closely the persons liable to prosecution;

(b) Defining more precisely the crimes attracting the application of the law;

(c) Acknowledging the right of the King to give partial or complete amnesty as provided by article 27 of the Constitution;

(d) Punishing persons who use the law to violate the rights of people or threatening, charging, arresting, detaining, torturing or violating the dwelling house unreasonably or who misinform, witness falsely or give false evidence by using the law to violate the rights of people, such persons are liable on conviction to punishment of between five and six years' imprisonment. The victim of such injustices has the right to apply for damages for any of the foregoing violations.

The amendments introduced by the National Assembly are welcomed by the Special Representative. They introduce important protections.

E. Courts and their independence

75. The Special Representative commends the improvements seen in the system of the administration of justice since his first report. In particular, he welcomes the establishment, in May 1994, of the Court of Appeals, which was the object of one of the recommendations contained in that report, and the commencement of its jurisdiction. However, the Special Representative is concerned that the Court of Appeals has not started functioning effectively and there are a large number of cases waiting to be heard. The procedures for the hearing of cases have not been drawn up and the delay in passing the law on the Supreme Council of magistracy has thwarted the role that the Court of Appeals should play as an important part of the judicial branch of Government.

76. During extensive meetings held at Battambang and Sihanoukville, the judges impressed the Special Representative with their dedication to their offices, the extremely heavy workload assumed and the diligent performance of their duties, including prison inspection and attention to the prompt hearing of matters before them. The Special Representative was impressed in particular with the action taken at the Battambang court house to improve the provision of information to the public and the facilities of the court building, including the layout of the public waiting areas and the court room by the introduction of

appropriate court facilities for the defender and suitable distinctions between arrangements for the hearing of civil and criminal cases. All of these are encouraging developments. They provide a model for courts in other parts of Cambodia.

77. However, the major problems for judicial independence identified in the first report of the Special Representative remain substantially as stated. In particular, the Special Representative received further reports of contact between judges and the Ministry of Justice in relation to particular cases and their disposition. He has also been informed by some judges about the purported practice of the Ministry of Justice of issuing instruction circulars on the day-to-day administration of the courts and the application of laws, sometimes in contradiction to the laws themselves. As already stated in his first report, the Special Representative stresses that this practice, besides being incompatible with the independence of the judiciary, deprives the accused person of due process and therefore contravenes article 14 (1) of the International Covenant on Civil and Political Rights which states, inter alia, that "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law".

78. The salaries of judges continue to be inadequate to provide sufficient sustenance and support for the judge and his/her family (reportedly US$ 20 a month).

79. To these problems must be added examples of serious challenges to judicial independence observed since the first report. They derive, in the main but not exclusively, from military sources. These challenges undermine the authority and weaken the independence of the judges. A non-exhaustive list of examples include the following:

(a) Serious attacks upon the Chief Judge and the Prosecutor and disruption of court proceedings by heavily armed military elements at Sihanoukville on 13 May 1994; an attack on Battambang prison by armed military elements, reportedly from the Fourth Military Region, on 29 March 1994, to release a prisoner who had been incarcerated for smuggling antiques;

(b) The disruption of a scheduled trial at Phnom Penh Municipal Court by armed military elements on 7 July 1994;

(c) The disruption of a scheduled trial at Kandal court on 15 July 1994 by armed military elements;

(d) The arbitrary killing of a civilian by military elements at Stung Treng and the non-prosecution of the case.

80. The most serious of these incidents related to the threat to the life of the Chief Judge of the Sihanoukville Court (Kompong Som) on 13 May 1994. A military officer, Sok Tha, whose parents had been found guilty of a trademark offence and who had been sentenced but not yet committed to prison, invaded the court building in the company of other military personnel who were armed. The Judge and the Prosecutor were forced to flee in fear of their lives. Although

certain steps were later taken to respond to this attack on the court, they were not, in the opinion of the Special Representative, adequate to its gravity:

(a) The report that Sok Tha was permanently demoted in rank and transferred has been disputed;

(b) The military personnel were not prosecuted in a civil court as they should have been, given the offence to the integrity of the court and to the administration of civil justice;

(c) The military prosecutor did not appear to have brought any prosecutions of the offenders before any military tribunal;

(d) The parents of the military officer concerned remain unpunished in respect of their sentence despite the lawful order of the Sihanoukville Court which was not subject to appeal and is still in force.

81. The Special Representative brought to the notice of the Government of Cambodia, in a regular communication, the unsatisfactory features of the case. While in Sihanoukville, the Special Representative sought to discuss the case with military personnel. Despite an appointment for that purpose, senior military officers were unavailable to the Special Representative for consultation - the only time this has occurred in Cambodia. Also while in Sihanoukville, the Special Representative drew the seriousness of the case to the notice of the Provincial Governor and the Deputy Governor. He offered support and advice to the Chief Judge and the Prosecutor.

82. The Special Representative received a separate report of apparent military interference in the judicial process at Battambang. On 29 March 1994, a group of armed men, apparently military personnel, seemingly from the Fourth Military Region, stormed Battambang prison threatening the lives of guards and other prisoners and forcing the release from the prison of a prisoner, Mr. Tes Sokhuntea. He had been convicted of offences of smuggling Khmer antiquities from Cambodia into Thailand. This incident was confirmed by officers at Battambang prison who acted with considerable restraint when under attack. It was also confirmed by the Chief Judge of Battambang, who indicated that the prisoner was still at large. It was the belief of Battambang prison officials that the persons involved in the enforced release of the prisoner were military personnel. The interference in the carrying out of a lawful sentence imposed by a court is an affront to the authority of the court.

F. Military and human rights

83. The Special Representative has been informed that the Centre for Human Rights is holding discussions with the authorities of the military court to explore the possibility of organizing human rights training for members of the military, and welcomes this positive development.

84. The alleged involvement of members of the military in human rights abuses, often unredressed, continues to be a matter of concern to the Special

Representative which he has called to the attention of the Government of Cambodia. A list of examples, far from exhaustive, includes:

(a) The raid at Battambang prison on 29 March 1994;

(b) The murder of Mr. Ang Kouy, a senior civil servant, apparently by military personnel in Kampot province on 19 April 1994;

(c) The attack on the judge and the prosecutor at the Sihanoukville Court House on 13 May 1994;

(d) The attempted killing of Mr. Pheng Kim, the Deputy Governor of Stung Treng, on 5 June 1994;

(e) The operation of a "secret prison" at Chheu Kmau, detailed in paragraph 92 below.

85. To the above list of cases must be added complaints received by the Special Representative concerning:

(a) The extraction of unlawful taxes at illegal checkpoints on roads and highways supervised by military personnel;

(b) The conduct of enforced conscription;

(c) The exemption of persons from enforced conscription upon payment of unlawful "fines" to military personnel.

86. While the Government has assured the Special Representative that none of the foregoing are sanctioned by law or government policy, it is clear that they exist. To a large extent it is also clear that the police and the judiciary lack the power or the effective means of support to enforce the law against such abuses. Such conduct undermines the confidence of the people of Cambodia in the Government and its agencies and personnel. It plays into the hands of the enemies of the Government and of its attempts to build a civil society.

87. Of possible relevance to the reduction of abuse of power within the military branches of the Government was the report given to the Special Representative during his third mission to Cambodia that a facility had been granted to the armed forces in respect of the grant of permits to conduct logging in the forests of Cambodia. Similar arrangements in other countries have led to an abuse of power as well as to the despoliation of the natural environment. The enjoyment of the environment is essential to a full realization of human rights. To that extent, it is relevant to the mandate of the Special Representative. However, it is also relevant, if a general licence for logging is confirmed, to the attempts of the Special Representative to encourage the Government of Cambodia to ensure that abuses of power by military personnel are redressed. The assurance to the military of sources of funds outside the regular budget and from activities not strictly relevant to military functions has obvious implications for human rights. It presents a risk of creating a state within a State, beyond effective civil power and influence.

G. Prisons and detention

88. The Special Representative welcomes the following improvements in the administration of prisons in Cambodia since his last report:

(a) As a result of recommendations made by the Special Representative following an inspection during his second mission, PJ prison in central Phnom Penh, has been improved with the help of financial assistance from Australia. The sewerage system has been renovated to remove human excrement; the water system for the supply of water to the cells of male prisoners has been improved; a plan to repair the roof in the female prison in order to stop leaks is in the process of being implemented; and the numbers of prisoners housed in PJ prison has been reduced by the transfer of prisoners elsewhere;

(b) Conditions at Battambang prison continue to improve. The administration of the prison has a generally enlightened approach. Sports and recreation facilities are adequate. The cells are clean and the prison food is reported to be satisfactory. It was pointed out that prisoners receive a daily subvention for food of 1,000 riels, which is more than that provided to soldiers (600 riels);

(c) Proposals are under consideration to close the T3 prison at Phnom Penh and to build a new prison outside the city. This would reportedly require an initial outlay of US$ 3 million-US$ 4 million to accommodate 1,000 prisoners. Such funds are not immediately available;

(d) A Juvenile Delinquent Centre has been established by subdecree of the Co-Prime Ministers dated 19 April 1994. This Centre will attempt to establish rehabilitation programmes for juvenile delinquents.

89. The Special Representative welcomes the complete cooperation he received during his second and third missions in visiting prisons as requested. It is noted that, as shown in a survey conducted by the Centre for Human Rights, the national rate of imprisonment in Cambodia is very low by the standards of comparable countries.

90. The conduct of the survey was a valuable exercise for the Centre. It revealed the following features about Cambodian prisons: there are 22 civilian prisons in Cambodia; there are about 1,800 prisoners, only 4 to 5 per cent of whom are female; and all prisons are dilapidated.

91. Several major problems were identified in the prisons inspected by the Special Representative. They have been called to the attention of the Government of Cambodia and discussed with senior prison officials:

(a) At PJ prison in Phnom Penh, until recent repairs were made the conditions were generally appalling, involving gross overcrowding, dark and inadequately ventilated cells, unremoved human excrement, poor water supply, the presence of one prisoner in iron manacles and one serious case of beriberi (caused by malnutrition);

(b) At Battambang prison, an escapee was punished on his return to the prison by "supervisors" appointed from among the prisoners and assigned to each cell. The punishment involved cruel beatings which are contrary to the international human rights norms and should have been prevented by the prison authorities, not condoned by them. The officials have been counselled. The Chief Judge of Battambang court has been informed of the situation by the Special Representative. Some prisoners also complained of a lack of cooperation in the provisions of advice about appeals. Others complained about arbitrary cancellation or curtailment of exercise time out of cells or group punishment by reduction of out-of-cell time;

(c) At Sihanoukville prison, mosquito nets and new sewerage facilities must be urgently provided and the serious overcrowding must be reduced. Food is poor in quantity and quality as a result of the inflated costs of food in the local market following the collapse of a bridge linking the city with Phnom Penh. The prison had a bad smell and was flooded in parts. The capacity for more prisoners in each cell had been increased by the insertion of an additional wooden landing in each cell to permit twice as many prisoners to be accommodated, except in one cell occupied by the sole female prisoner. Medical facilities were inadequate. A prisoner admitted to the prison two days before the visit of the Special Representative had an open wound with an exposed bone on his right lower arm from an apparently untreated gun shot injury. The prison guards complained of a lack of transport and funds to arrange for hospital treatment of the wound, which was clearly of urgent necessity. The Special Representative informed the Chief Judge of Sihanoukville Court about the case. He also contacted the local office of Médecins du monde to secure urgent care. The Chief Judge assured the Special Representative that immediate care would be provided, if necessary by the use of his own vehicle.

92. A serious case of abuse of power involving a so-called "secret prison" at Chheu Kmau outside Battambang came to the notice of the Special Representative after his first report. It resulted in urgent representations to the Government of Cambodia and to urgent inquiries and investigations by the Centre for Human Rights. The Special Representative welcomes the steps taken by the Government to respond to his representations. The Government dispatched to Battambang province a high-level commission of inquiry. It conducted its inquiry and prepared its report. Senior officials of the Government in the province reported to the Special Representative that at least one of the senior military officers involved in the maintenance of the secret prison at Chheu Kmau had been arrested and transported to Phnom Penh. While in Battambang, the Special Representative visited at the hospital an alleged inmate of the prison who had lost two arms, the sight of his right eye and the use of one leg as a result of being forced at gunpoint by "prison" guards to engage in the removal of land-mines planted at the perimeter of the prison to ensure its security. This profoundly injured man painted a vivid picture of his "arrest" by military personnel, allegedly for relatively minor civil offences, his removal to the secret prison, his witness to gross crimes and terrible suffering and finally his own shocking injuries when performing enforced de-mining for which he was totally unprepared and uninstructed.

H. Media and freedom of expression

93. The Special Representative welcomes the high level of media and press freedom in Cambodia. In many ways Cambodia enjoys greater freedom of expression than other countries in the region. In comparison to Cambodia's recent history, when it experienced under different regimes of one-party Government a single controlled media and stern limits on freedom of expression, the freedom now enjoyed in Cambodia is unique in its history. Large numbers of both international and local (Khmer) newspapers flourish in Cambodia. There are, for example, more than 20 Khmer-language newspapers. There is a large contingent of international journalists resident in Cambodia vigilantly observing local politics and developments and reporting on them. The local media flourishes. It is of variable quality. This doubtless reflects the fact that few local publishers or journalists have had professional training in the skills and ethics of journalism until the establishment of UNTAC and the adoption of the present Cambodian Constitution.

94. The Special Representative also notes that the revised draft press law is currently pending approval by the Council of Ministers. The Government withdrew the original draft submitted by the Council of Ministers to the National Assembly, after many national and international observers, including the Centre for Human Rights, made suggestions for its review in conformity with international human rights standards. The draft law was revised by the Ministry of Information in two stages, in conformity with the comments offered by the Centre and the Special Representative. The draft now appears to be in conformity with international human rights standards. The Special Representative commends the Government and particularly the Ministry of Information for their careful attention to the impact of the draft law on human rights.

95. The United Nations High Commissioner for Human Rights also welcomed the high level of freedom of expression in Cambodia. During his mission, the High Commissioner received the assurance of the Government of Cambodia that freedom of the press would be respected. No "black list" or retaliation would be contemplated against foreign journalists accused of "negative reporting". These assurances are welcomed. The Special Representative pointed out to the Government that a measure of error and even of excess is inherent in freedom. Experience has shown that attempts to eliminate error and excess generally result in excessive control and loss of freedom. By the same token, the Special Representative is understanding of the complaints of the Government, international and local journalists and sensible citizens that some media elements, particularly in the local print media, have sometimes abused their freedom by:

(a) Publishing unattributed, unsourced materials;

(b) Publishing rumour and grossly biased reports;

(c) Publishing grossly insulting and offensive cartoons and articles of a particularly crude character.

96. However, a number of developments and events since the last report give cause for concern. These are drawn to notice by the Special Representative:

(a) The arrest and detention on 23 March 1994 for 48 hours of Mr. Nguon Noun, editor of the newspaper Morning News;

(b) The grenade attack on 24 March 1994 on the office of the newspaper Antarakum by unknown attackers;

(c) The closure of the newspaper Sokal on 16 May 1994 by order of the Minister of the Interior and confiscation of 10,000 copies of an issue said to be critical of senior military officials;

(d) The ministerial order of 7 June 1994 to the editor of the newspaper Prum Bayon ordering suspension of publication;

(e) The death (and apparent murder) of Mr. Thou Chham Mongkol, editor of Antarakum on 11 June 1994, ostensibly in a traffic accident, which is still under investigation at the time of this report;

(f) The reported suggestion to foreign correspondents in June and July 1994, unimplemented, that their visas might be terminated and they might be expelled as a result of displeasure at certain articles written by them;

(g) Reported threats to the director of the Khmer Institute for Democracy concerning a public forum called by the Institute to discuss the draft press law;

(h) The second arrest of Mr. Nguon Noun on 7 July 1994 following the publication in the Morning News of articles concerning the aborted coup d'état on 2 July 1994;

(i) The issuance of a circular by the Ministry of Information to the newspapers and magazines in Cambodia on 16 July 1994, containing a list of directives, which appear to be in violation of international human rights standards.

97. The Special Representative made written recommendations about Mr. Nguon Noun's arrest. He called at PJ prison twice on 17 July 1994 to see Mr. Nguon. Eventually, on 18 July 1994, he was granted access. Subsequently, representations were made by the Special Representative concerning the physical condition of Mr. Nguon and access to his family. This was later allowed. Eventually, on 25 July 1994, the United Nations High Commissioner for Human Rights appealed to the First Prime Minister that Mr. Nguon might be released. He repeated that request on 26 July 1994 to the Council of Ministers.

98. Given the gravity and the frequency of these incidents, the Special Representative is concerned that the actual freedom enjoyed by the media in Cambodia is falling below international human rights standards. This is a worrying development, which cannot be mitigated or offset by the draft press law, which may, in its terms, be in conformity with international human rights standards while practice does not always conform.

I. Immigration, law and minorities

99. The Special Representative was informed that a law on immigration was being discussed by the National Assembly and a law on citizenship and nationality was being drafted and he welcomes these developments. As stated in the Special Representative's previous report, the adoption of such laws, in conformity with the human rights requirements of the Cambodian Constitution and the relevant international human rights standards, is a matter of urgency, particularly in order to establish a clear legal framework for the definition of the legal status of the Vietnamese and other minorities currently living in Cambodia. However, the draft immigration law remains seriously flawed from a human rights perspective and there have been no significant changes so far, despite the repeated advice offered by the Centre for Human Rights, UNHCR and Cambodian non-governmental organizations. Some recommendations on the draft immigration law are contained in paragraph 171 below.

100. During his third mission to Cambodia, the Special Representative visited the ethnic Vietnamese Cambodians at Chrey Thom on the border between Cambodia and Viet Nam. These boat people, numbering about 5,000 persons, have been stranded in small boats for nearly 18 months. They live on an inadequate diet of sea snails and other meagre food, supplemented by assistance provided by WFP, UNHCR and local Cambodia human rights non-governmental organizations, notably the Ligue Cambodgienne pour la promotion et la défense des droits de l'homme, CAFAAD, the Association des droits de l'hommes et du développement au Cambodge, the Ligue Cambodgienne pour la défense des droits de l'homme et du Citoyen, Human Rights and Community Outreach Project, the Khmer Institute for Democracy, the Khmer Kampuchea Krom Human Rights Association and the Khmer Students and Intellectuals Association. Appeals by international agencies and Cambodian non-governmental organizations, including those addressed to the King of Cambodia, have not evoked action. The King has insisted upon respect of the rights of his subjects who are of non-Khmer ethnicity. UNHCR has undertaken to provide funding to resettle the persons concerned in their former villages. They fled, mostly under UNTAC protection, to escape massacres of ethnic Vietnamese in Cambodia which have blighted the recent history of Cambodia. Many have documentary proof of permanent residence status granted to them or their families in earlier times. Many can prove that their parents and even grandparents were born in Cambodia. Most could establish long-term association with districts of Cambodia by "family book" records kept in Cambodian offices. Most asserted acquaintance with many Khmer friends who, they claimed, would vouch for them as good citizens and workers. All have established their commitment to Cambodia by living an arduous, precarious and even dangerous life in their boats since their removal to the border to escape violence. Most have gradually lost accumulated savings. They suffer a miserable existence. Their children are receiving no education. Their health conditions, as witnessed by the Special Representative, are poor. Their general standard of life is appalling. Most speak the Khmer language and amongst themselves speak a mixed dialect of Khmer and Vietnamese. All wish to return to their homes in Cambodia.

101. The Ministry of Interior has also instructed the border guards to deny entry to those Cambodian identity card and passport holders who cannot speak Khmer. This order may result in the denial of entry to many minority groups, including ethnic Vietnamese and Khmer Leu (tribal people from the provinces of

Ratanakiri and Mondolkiri), who are not very fluent in Khmer. In addition, there has also been an order from the Ministry of Interior to conduct a census of ethnic groups in the country. These measures would have to be implemented carefully, without allowing arbitrariness or abuse at the local level. This concern arises out of the fact that, recently, there have been confirmed reports of the confiscation of the identity cards of ethnic Vietnamese in Neak Loeung, Peam Ro district, Prey Veng province, who were being surveyed. This incident happened on about 5 June 1994. After the intervention of the Cambodia Office, the identity cards have been returned. The confiscation of identity cards resulted in restricting the freedom of movement of these ethnic Vietnamese and led to demands for money by the local officials before the cards were returned. In the absence of any other documentation or database, the cards are the only proof of legal residence for many of these people.

J. International human rights

102. International human rights instruments to which Cambodia is a party include: the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees. The Special Representative notes that Cambodia has one of the highest rates of ratification of and/or accession to human rights conventions in the Asian region.

103. A number of the above-mentioned instruments provide for the submission of periodic reports to the international committees established to monitor their implementation by States parties. In this connection, the Special Representative commends the Government of Cambodia for the establishment, on 28 March 1994, of an Inter-Ministerial Committee on Reporting Obligations responsible for the preparation of the relevant reports. The establishment of such a body was recommended by the Special Representative in his report to the Commission on Human Rights of February 1994. 1/ However, the Special Representative notes that Cambodia has not complied with any of its international reporting obligations so far. Deadlines for the presentation of reports by Cambodia are imminent and some are overdue.

K. Non-governmental organizations

104. The Special Representative welcomes the large number and variety of Cambodian non-governmental human rights organizations. He was also impressed by the vitality of those organizations, which are presently active in several areas, including human rights education, monitoring, legal counselling and

defence, prisons, promotion of human rights of vulnerable groups such as women, children, elderly persons, minorities and disabled persons. Many have established offices in the Cambodian provinces as well. The Special Representative also commends the work of specialized groups and particularly the religious, women, Khmer Kampuchea Krom Human Rights Association and Vietnamese non-governmental organizations.

105. During his recent missions in Cambodia, the Special Representative held several meetings with members of non-governmental organizations at Phnom Penh, Sihanoukville and Battambang. Among the concerns brought to his attention were the possible implications of the law on the outlawing of the "Democratic Kampuchea" group for non-governmental human rights organizations and others called upon to defend the rights of the persons accused under the law. Some non-governmental organizations expressed concern that, by defending those rights, they might be accused of collaboration.

106. Another matter of concern for non-governmental human rights organizations, which is shared by the Special Representative, is the recent request made by officials of the Ministry of Interior to provide lists of members and a report on their activities. The non-governmental organizations have expressed their apprehension at this practice and are concerned about it in view of the recently adopted law on the outlawing of the "Democratic Kampuchea" group.

107. Non-governmental human rights organizations also explained to the Special Representative their difficulties in having access to prisons and in getting information, especially draft laws, from the Government. In this context the Special Representative notes, with approval, the recent decision of the Government to invite the non-governmental organizations to give opinions on the drafts of laws relating to human rights. However, it remains to be tested in practice, partly due to the fact that the non-governmental organizations themselves have not worked out the procedures of their intervention regarding drafts of laws. The access to prisons remains very localized, with non-governmental organizations gaining access in some provinces and being denied entry in others. The Special Representative has made some recommendations concerning this issue (see para. 158 below).

X. RECOMMENDATIONS

A. Right to health

108. The need to upgrade the infrastructure and delivery of health services remains urgent and substantially the same as stated in the first report.

109. Particularly urgent priority should be given to campaigns to prevent the transmission of human immunodeficiency virus (HIV)/acquired immunodeficiency syndrome (AIDS). New initiatives should be taken, in consultation with UNDP and the World Health Organization (WHO) to promote awareness about AIDS in the media, in secondary schools, in other educational institutions and in other appropriate public ways. There must be a heightened sense of the urgency of promoting HIV/AIDS awareness and education in Cambodia. The Centre for Human Rights should, in cooperation with UNDP, WHO and other relevant international

and national bodies promote seminars, workshops and other initiatives designed to mobilize non-governmental human rights organizations in campaigns of HIV/AIDS awareness. Particular attention should be addressed to assisting the Secretariat for Women's Affairs and non-governmental women's organizations and to promoting the relevance of women's empowerment. The organization of prostitutes into associations for self-protection should be promoted. Investigations should be made concerning the availability from international donors of free condoms for distribution to sex workers and other target groups with appropriate advice about HIV/AIDS and its modes of transmission. Mobile vans to provide such education and assistance should be established without delay in main cities.

110. The Special Representative welcomes the investigation by the National Assembly of the current availability of pharmaceutical drugs having dangers to life and health if used without strict medical supervision. The better control of such drugs and scrutiny of the effectiveness of imported drugs should have the attention of the Government of Cambodia in a way consistent with the continued provision by pharmacies of cheap drugs and advice to members of the public unable to secure, or to afford, medical attention.

111. There is a need to monitor the channelling of pharmaceutical drugs and medicines donated to hospitals in Cambodia. It is alleged that such donated pharmaceuticals are often found on sale in pharmacies or in the local market. Arrangements should be made to prevent the sale of donated medicines and to avoid their misuse.

B. Cultural rights

112. The Special Representative welcomes the important work of UNESCO in Cambodia for the preservation and protection of the cultural heritage of the country, especially the Angkor Wat complex. The assistance of the Government of Switzerland is acknowledged in providing a legal expert to advise the Government of Cambodia on the needs of legal regulation to protect the environment of the Angkor Wat and other similar sites of archaeological and cultural importance.

113. The customary laws of Cambodia need to be studied carefully. Adoption of some of these laws may prove to be useful. However, owing to the peculiar conditions of Cambodia's destruction of traditional institutions, the extermination of monks and the intelligentsia and the destruction of documents, the identification of actual laws, customs and procedures may prove to be difficult. Customary laws may need to be modified again if such laws are in conflict with human rights norms and standards.

C. Education, including legal education

114. The urgent needs to reinforce the infrastructure of the Cambodian educational system, noted in the first report, must remain one of the highest priorities of the Government of Cambodia.

115. The Special Representative again requests the Centre for Human Rights to explore ways to assist the Government in providing human rights education to school children and the general population. In this regard, the plan of the Cambodian Institute of Human Rights to publish a book on human rights for school teachers (see para. 64 above) should be supported with appropriate funds provided by the Centre.

116. The Special Representative also requests that education in basic human rights principles be facilitated to the 29,000 monks presently living in 3,000 temples.

117. The Centre for Human Rights should revise the Human Rights Training Manual prepared by UNTAC. Revisions should aim at emphasizing institutional building of human rights in areas such as the judiciary (civilian and military courts) and civil administration.

118. The Special Representative requests the Centre for Human Rights to give particular consideration, in consultation with Cambodian government officials, non-governmental organizations and informed citizens, to the ways in which racial and ethnic prejudice may be tackled by appropriate educational means. There is a need to study successful examples by which other countries have encouraged the development of policies and attitudes of multicultural acceptance and tolerance. Initiatives beyond education should be explored. These include the use of the entertainment media, appeals by community leaders, inclusion of representatives of ethnic minorities in the activities of governmental and non-governmental bodies and the encouragement of personal contacts which tend to break down the stereotypes upon which prejudice feeds. It is important that countries that are neighbours to Cambodia, with ethnic minorities of their own people in Cambodia, should appreciate that the way they treat, in their countries, people who are ethnic Khmers may be relevant in Cambodia to the achievement of ethnic and racial tolerance and the acceptance for non-Khmers. The provision of good examples and reciprocal promotion of multicultural tolerance by neighbouring States may assist in the promotion of these values within Cambodia.

119. The Centre for Human Rights should give consideration to the conduct of a workshop or seminar of Cambodian non-governmental human rights organizations, including those connected with ethnic minorities in Cambodia, to explore the development of an action plan containing practical ways to promote ethnic and racial tolerance and harmony. The report of such a workshop or seminar should be made available to the Centre and the Special Representative to help in the organization of future initiatives, in consultation with the Government of Cambodia, to promote multicultural tolerance and acceptance of ethnic diversity within Cambodia. Several ministers stressed to the United Nations High Commissioner for Human Rights and to the Special Representative the particular sensitivity of ethnic issues in the context of Cambodia. Their sensitivity is not doubted. Nor is the Special Representative unaware of the feeling of anxiety in many quarters in Cambodia concerning the vulnerability of the Cambodian culture and language to external pressure from more numerous neighbours. The building of a strong Khmer culture, confident in the presence of loyal citizens of different ethnicities, should be the goal.

120. The problems in legal education which were identified in the first report remain to be tackled. The recommendations in that report are again commended to the attention of the Government of Cambodia. The Special Representative urges that the selection of Cambodian judges should continue to follow strict procedures designed to prevent favouritism and corruption. The appointment of other persons who have not been chosen in accordance with those procedures should be terminated. Such appointments highlight the urgency of the establishment of the judiciary by a law of the Supreme Council.

D. Right to work

121. With regard to the reported cases of enforced conscription of participants in the UNDP/ILO training programme at Battambang (see paras. 68 and 69 above), the Special Representative stresses that conscription should be conducted only pursuant to a clear law containing appropriate safeguards. To the extent that enforced conscription occurs outside the framework of the law it should be terminated. Redress should be provided to those who have been illegally conscripted into the army. It would be specially regretted if this practice interfered in the UNDP/ILO work regeneration programme. The Centre for Human Rights should continue to monitor this issue.

122. The UNDP/ILO programme has also revealed a need for better planning and coordination in the services of aid agencies to non-governmental organizations to avoid or reduce duplication of services and wastage of human and material resources. The Centre for Human Rights, in consultation with UNDP and ILO and non-governmental human rights organizations, should cooperate in the realization of initiatives to promote and encourage work regeneration programmes in the most efficient ways possible.

123. The Centre for Human Rights should, in cooperation with ILO and other relevant organizations, ensure the development of a draft labour law in conformity with applicable international human rights standards. Such a draft law should be based on the existing law and pay careful attention to the peculiarities of Cambodian society.

E. Rights to the environment and to sustainable development

124. The Special Representative recommends that:

(a) A national environmental plan be drawn up with the assistance of the Cambodia Environmental Advisory Team and international agencies and implemented to safeguard the natural resources of Cambodia. This plan should bear in mind the mistakes committed by other countries in the region, and elsewhere, in drawing up and implementing plans which resulted in environmental degradation and the denial of the peoples' right to participation in the planning and implementation stages;

(b) Action should be taken to stop the illegal plundering of forests and other natural resources by logging and mining, and that those responsible be punished;

(c) The decision to grant exclusive rights to the armed forces to handle timber exports should be reviewed in order to ensure a process that is in accordance with the budget law and one that will ensure accountability of and civilian control over the armed forces;

(d) Steps be taken to combat the menace posed to the environment, particularly to fish stocks, by the ooya plant.

F. New laws and practices

125. The Special Representative reiterates the call contained in his first report for a number of new laws and bodies, including:

(a) The establishment of a constitutional council as envisaged by the Constitution;

(b) The establishment of a supreme council of the judiciary as envisaged by the Constitution;

(c) The enactment of a press law;

(d) The enactment of a law on the peaceful settlement of land claims;

(e) The enactment of a law on freedom of association;

(f) The enactment of a law on immigration, nationality and refugees.

126. The Centre for Human Rights should continue to monitor draft legislation having implications for human rights and to provide advice to the Government of Cambodia. It should also continue to assist the Commission on Human Rights and Reception of Complaints of the National Assembly on the performance of its vital role.

127. Nothwitstanding the amendments introduced by the National Assembly to ensure a certain degree of protection of human rights, the Special Representative notes that the law on the outlawing of the "Democratic Kampuchea" group has a large potential to offend basic human rights. The law should be analysed by the Centre for Human Rights with reference to the Constitution and the international instruments that Cambodia has ratified relevant to human rights. It should be carefully monitored to ensure that it does not become an instrument for oppression and the misuse of power.

128. Of particular concern are the possible implication of the law for non-governmental human rights organizations and others who defend the rights of persons accused under the law, and the request from the Ministry of Interior to have names of members and staff of non-governmental organizations. Accusation does not establish the offence. Every person who is accused under the law is entitled to a fair trial and to have a defender. Abuses of the law and its administration should be exposed by non-governmental human rights organizations without fear of being accused of collaboration. The coming into force of the law will present a major test to the courts and Constitution of Cambodia. The

Special Representative will keep in close contact with the Centre for Human Rights and non-governmental human rights organizations and will offer his advice and assistance to the Government of Cambodia on this measure, as is appropriate.

129. The provision contained in article 9 of the law, permitting the right to an award of damages in criminal proceedings, draws attention to some provisions in Cambodia's criminal law and procedure which require reform. The Special Representative refers, in this regard, to the laws from the period prior to the 1993 elections allowing the imprisonment of people for non-payment of civil debts and the corresponding practice of some courts. During his visits to prisons in Cambodia the Special Representative met several prisoners imprisoned for failure to pay court-ordered damages. While the facility of damages compensation is entirely acceptable, it is contrary to the Provisions Relating to Criminal Law and Procedure Applicable in Cambodia During the Transitional Period, which are still in force, and to article 11 of the International Covenant on Civil and Political Rights, which states that no one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation. The Centre for Human Rights should conduct a review of all Cambodian laws and practices in this regard with a view to advising the Government on the removal of such provisions from the criminal law and practice of Cambodia.

130. The Special Representative notes that, according to the Convention on the Prevention and Punishment of the Crime of Genocide, to which Cambodia acceded on 14 October 1950, the necessary legislation should, in accordance with the Constitution, be enacted to give effect to the Convention, in particular to provide effective penalties for persons guilty of genocide, who should be tried by a competent tribunal. The Special Representative notes that the law on the outlawing of the "Democratic Kampuchea" group mentions that responsibility for "genocidal acts" cannot be annulled by the passage of time. The Special Representative notes that the question of defining the victims of acts of genocide was dealt with by the Special Rapporteurs on the question of impunity of perpetrators of human rights violations of the Subcommission on Prevention of Discrimination and Protection of Minorities. 6/ As noted by the Special Rapporteurs, the Convention contains a limitative enumeration of victim groups, which should be, in whole or in part, a national, ethnical, racial or religious group as such. Therefore, because the Convention does not include reference to "political groups", although this term appeared in the preliminary draft, the massacres committed by the Khmer rouge, which have all the characteristics of a genocide, cannot be classified as such. The Special Representative appreciates the decision of the Special Rapporteurs to re-examine this question in their final report. The Special Representative also notes that non-governmental human rights organizations have studied the additional negative effect on the rehabilitation of victims of grave violations of human rights that impunity of the authors of such violations may have. The Special Representative suggests that interested non-governmental organizations, experts and United Nations organs study further the issue of impunity of those accused of massive massacres in Cambodia, duly taking into consideration the relevant provisions of the conventions and the law, with a view to forwarding suggestions to him for consideration in his next report.

131. The law on the outlawing of the "Democratic Kampuchea" group should be widely disseminated to local officials, courts and the population, including

through the use of television and radio. Free and open democratic debate on the law and its implementation should be allowed on a continuous basis. The implementation of the law should follow a transparent process. Arrests under the law should be made public. Information about arrests must be immediately submitted to the public and the highest political authorities. The implementation of the law should be by civilian police. Those arrested under the law should be charged and tried by civilian courts. The courts must remain vigilant against abuse of the law and supervise its implementation, in order to detect abuses and to correct them.

G. Judicial independence and the rule of law

132. The problems for judicial independence identified in paragraphs 75-82 above should continue to be addressed. They include:

(a) The urgent need to adopt a code of judicial practice;

(b) The need to increase or supplement the salaries of judges beyond the wholly inadequate sum of US$ 20 per month, which renders judges vulnerable to temptation, corruption and influence;

(c) The need to improve the supply of legal materials and resources to judges;

(d) The need to introduce the system of judicial mentors.

133. The Special Representative welcomes the initiative of France in providing the funding for a number of judicial officers to participate in the training of Cambodian judges.

134. The Special Representative also welcomes the consideration by the International Bank for Reconstruction and Development, in consultation with the Government of Cambodia, of a project to assist the Government to collect and publish the statute law of Cambodia and the jurisprudence of the higher courts of Cambodia. He encourages the furtherance of this project. Without easy access to the law it is virtually impossible to build a modern rule of law society in Cambodia. The Special Representative also commends to the Bank and other funding agencies, in consultation with the Government of Cambodia, the provision of assistance in statutory and legal drafting. One of the reasons for the slow progress in the enactment of legislation has been a shortage of trained drafters. As the Special Representative was informed, only two or three drafters are normally available to the National Assembly. An enhancement of this capacity would contribute considerably to the quality and speed of law making.

135. The two cases of interference by the military in the judicial process reported above (paras. 80-82), namely the threat to the life of the Chief Judge of the Sihanoukville court on 13 May 1994 by a military officer, and the attack on Battambang prison on 29 March 1994 by a group of armed men, apparently military personnel, illustrate a number of matters of general concern which, in

the opinion of the Special Representative, warrant assistance and technical advice to the Government of Cambodia by the Centre for Human Rights towards:

(a) The early enactment by the National Assembly of a law governing interference in the due administration of justice (contempt of court);

(b) The clarification of the liability of military personnel to civil courts and to the general law when committing offences of a private character outside their military functions;

(c) The elucidation of the duty of military prosecutors and tribunals to cooperate with and facilitate the work of the civil courts in respect of civil offences by military personnel.

136. With regard to the specific cases, the Special Representative recommends that the Government of Cambodia take urgent steps to ensure that the military officer responsible for the attack on the Chief Judge of Sihanoukville is prosecuted according to the law and that all the concerns expressed in paragraph 80 are fully redressed.

137. The Special Representative also recommends that the Government of Cambodia investigate fully the attack on Battambang prison and that the persons responsible be brought to justice. Every effort should be made to recapture the prisoner who escaped with the help of the military group. He should, upon conviction, be punished for escaping from lawful custody.

138. The Special Representative was informed of a new subdecree which has not yet been promulgated, by which military personnel are to be mandated in certain circumstances to offer support and assistance to the civil courts. The Special Representative welcomes this development. The Centre for Human Rights should offer its assistance to the Government as necessary, to ensure the early operation of the subdecree. It is essential that military personnel should clearly understand that their duties include the upholding of the Constitution of Cambodia and the rule of law under which it is established. They are not above the law. Whenever military personnel challenge the independence and authority of the civil courts these courts should be entitled to look to the Minister of Justice to ensure that the culprits are promptly charged and, if found guilty, punished for their offences. Appropriate training of military personnel in human rights should include the provision of information about the essential nature of judicial independence and authority and the duty of the military to respect and uphold the same. The Centre for Human Rights should continue to cooperate with the Government in the design of courses to include this element.

139. The Special Representative repeats his advice that the practice of consultation by judges with the Minister of Justice, officers of his department or other ministers or departments should cease. This practice is incompatible with the independence of the judiciary.

140. The Special Representative also advises the Government of Cambodia that ministers should not write to courts concerning cases currently being determined by them. Any representations by the Government or ministers to courts must be

confined to cases in which the Government or the ministers are parties or are allowed by the court to intervene. Such representation must then be made in the presence of the other parties and in open court so that they can be disputed or contradicted. Great care must be exercised in publicly communicating with courts or judges concerning current cases, lest the court's appearance of manifest impartiality and justice be undermined. If ministers wish to initiate action by courts (for example in relation to alleged infringements of the law governing freedom of expression) they should do so by legal process, involving a charge brought by a prosecutor and not by writing a letter to the court. Such informal procedures have the undesirable consequence, if conformed to by the court, of making the court appear to be a servant of the executive branch of government, instead of the independent guardian of the law, holding the scales of justice equally between the executive and the individual.

141. The Centre for Human Rights, in conjunction with the Asia Foundation, which has provided assistance to the Battambang Court together with other bodies, should continue to provide advice to the Government of Cambodia on improvements in the provision of court services.

H. Fair and open trial

142. The requirements pointed out in the first report have only partially been met. They require continuing attention. The Centre for Human Rights should continue to monitor observance of the law of Cambodia providing for persons accused of criminal offences to be brought promptly before a judge and for limiting pre-trial detention.

143. In notable cases, such as the hearing of the allegations against the journalist Mr. Nguon Noun referred to above (paras. 96 and 97), it is encouraging to the Special Representative that the proceedings were heard in open court. Such proceedings were thus observed by officers of the Centre for Human Rights, representatives of non-governmental organizations, members of the diplomatic corps and others. This open administration of justice, including in a sensitive case allegedly involving issues of national security, is to be welcomed. On the other hand, there were aspects of the conduct of the trial that were revealed which, in the opinion of the Special Representative, as reported, fall short of appropriate international standards and, it is believed, Cambodia's own laws. It appeared to reliable observers who have reported to the Special Representative that the judge may have consulted others before determining the provision of an adjournment as requested by the defender at the preliminary hearing.

144. The absence of a law on the legal profession should not hinder the provision of free legal services by non-governmental organizations. The Government should enable such organizations to perform their service of free representation without any hindrance, intimidation or interference. Defenders must be given access to their clients in custody and adequate time to prepare their defence. The law on the legal profession must guarantee the rights of defenders, including their immunities during the performance of their duties. On the other hand, complaints about demands for excessive fees by defenders must be carefully examined and the non-governmental organizations must ensure that

the provision of representation services is free of cost. A voluntary code of ethics must be drawn up by all those who are involved in representation, which must uphold the highest standards of honesty and competence. The Centre for Human Rights should continue to assist in the coordination of all efforts towards the building of a legal profession in Cambodia and ensure the right of representation for criminal defendants. Pending the development of more resources for representation, defendants must be allowed to call upon a friend, or a defender or advocate of his/her choice, for representation in legal and judicial proceedings.

I. Right of appeal and review

145. The jurisdiction of the Court of Appeal to hear appeals and to perform judicial review should be clarified. As a result of consultations with judges, non-governmental organizations, prisoners and others, the Special Representative makes the following recommendations to the Government of Cambodia with a view to the passage of the necessary laws or the adoption of the necessary practices:

(a) A facility to appeal against criminal conviction and sentence should, in special circumstances, be available outside the present period of two months provided by law. In some cases of illiteracy, ignorance, mistake or the neglect of others, a proper basis for an extension of time could be made out. It should be left to the trial judge or the Court of Appeal, in special circumstances, to provide an extension where justice requires that course;

(b) Arrangements should be made for oral and written notification of the right to appeal and the time to appeal to be given to a convicted prisoner both by the judge at the time of conviction and after the prisoner's arrival at prison, if a sentence of imprisonment is imposed. A follow-up advice is desirable because at the time of sentence a prisoner may not attend closely to all the details of the judge's remarks;

(c) Instructions should be available at prisons concerning the way undefended prisoners may appeal. A minimum of formality should continue to be observed in relation to the lodging of appeals.

146. The Special Representative welcomes the provision to prisoners at Battambang prison of access to non-governmental human rights organizations. The enlightened policy in this regard is deserving of praise, which has been conveyed to the Government of Cambodia. This facility should be available to prisoners throughout the country. The Special Representative recommends that the Government give instructions to officers in charge of prisons to authorize accredited representatives of non-governmental human rights organizations to visit prisons and to inform prisoners generally on their rights, to hear complaints and to take appropriate action for prisoners wishing the services of a defender.

147. It is essential that judges and prosecutors continue to visit prisons at regular intervals to ensure that only persons still undergoing lawful sentence are confined, to investigate complaints of wrong-doing against prison officials

or other prisoners and to ensure that facilities for appeal and review rights are respected.

J. The police and the military

148. Members of the military responsible for the human rights abuses, including the incidents identified in paragraphs 79-87 above, should be tracked down and brought to justice. The honour of RCAF is at stake. But so is the rule of law and the submission of the military to the civil Government established by the Constitution.

149. The Minister of Defence, in consultation with the Co-Minister of Interior and the Minister of Justice, should consider the institutional implications of the recurring problems of military lawlessness. The Special Representative urges the Government of Cambodia to consider the creation of a joint commission of the Ministries of Defence, Interior and Justice to propose laws and policies which tackle abuse of power by military and police personnel and to provide effective means of redress, no matter how highly placed is the official involved. The Centre for Human Rights should make itself available to the ministries (and any others concerned) to provide advice and assistance in tackling this important continuing challenge to respect for the rule of law and human rights in Cambodia.

150. The Centre should continue its efforts, in consultation with other United Nations agencies, national initiatives and non-governmental organizations, to provide human rights elements in the training courses for military and police personnel.

151. With regard to the recent decision of the Government of Cambodia to allow the military to control logging concessions, while it is not part of the Special Representative's functions to interfere in the financial arrangements of the Government, in the context of other matters called to notice in the present report this development is a cause for concern. If a licence for logging is confirmed to the military in Cambodia its exercise will need to be most closely monitored for its implications for a number of basic human rights.

K. Prisons and other custodial detention

152. The Special Representative recommends that the results of the prison survey conducted by the Centre for Human Rights be regularly updated and provided to relevant government bodies. They should also be shared with other United Nations agencies, national representatives or other bodies that might be able to provide funding to improve the physical condition of Cambodia's prisons. The representatives of the Government of Cambodia assured the United Nations High Commissioner for Human Rights and the Special Representative that they would welcome international assistance to help improve the state of Cambodia's prisons. The Centre should actively explore this necessity. It should identify a list of priority tasks with practical objectives, which could be shared equitably and sensibly among funding bodies.

153. The Special Representative also recommends that international organizations and other interested donors assist the Government of Cambodia in the establishment of the Juvenile Delinquent Centre for the rehabilitation of juvenile offenders.

154. The Special Representative welcomes the initiative of the Commission on Human Rights and Reception of Complaints of the National Assembly (recommendation 111) dated 25 April 1994 addressed to the Co-Prime Ministers of Cambodia concerning the administration of prisons. In this communication, the Commission recommended:

(a) The separation of remand (unconvicted) prisoners from convicted prisoners and minors from adult prisoners and the separate treatment and detention of women prisoners;

(b) The provision of more female police officers to supervise female prisoners;

(c) The provision of separate clothing to convicted prisoners;

(d) The provision of education to prisoners who are minors;

(e) The assurance of a speedy trial to ensure that unconvicted prisoners are not held for more than six months without trial.

155. It is noted that the Government, in a letter to the Commission on Human Rights and Reception of Complaints, has agreed, in principle, to these recommendations. The Special Representative commends these developments and supports the speedy implementation of the recommendations.

156. It is also noted that the recommendations conform to international principles contained, inter alia, in the International Covenant on Civil and Political Rights, the Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment, and to proposals in the first report of the Special Representative. They are supported by the Special Representative.

157. The observations of the Special Representative during his visits to prisons in Phnom Penh (PJ prison), Battambang and Sihanoukville in the course of his second and third missions confirm that only some of the above recommendations have been implemented. Women prisoners confirmed that they were housed separately and made no complaints about abuse to the Special Representative. On the other hand, minors were found in all prisons, no facilities for education appeared to be provided and distinctive clothing was not provided to separate convicted from unconvicted detainees.

158. The Special Representative's inspection of PJ prison at Phnom Penh and the prisons at Battambang and Sihanoukville reveal that the following need remedial action:

(a) Prison officials should be required by law to inform family members as well as designated people concerning any cases of serious illness or injury suffered by prisoners and urgent medical facilities should be made available;

(b) Beating by prisoners as a measure of punishment must be forbidden. The only punishment of prisoners must be authorized by a judge (if a criminal offence has been committed) or by prison rules for minor offences;

(c) Group punishment of prisoners not involved in misconduct should be forbidden;

(d) Consideration should be given to supplementary food allowance where, because of special local conditions, the standard daily allowance of 1,000 riels per prisoner is not adequate to secure a proper nutritious diet;

(e) Sewerage facilities should be repaired as a matter of urgency, human excrement should be removed from prison cells, water supply and ventilation should be adequate and mosquito nets should be provided as necessary;

(f) Advice about appeal and review rights should be made available by the prison authorities on request;

(g) Local non-governmental human rights organizations should be given appropriate access to prisoners to permit the furnishing of general advice, the receipt of complaints and the provision of a defender where appropriate. That facility is now available at Battambang prison and should be extended to prisons throughout Cambodia;

(h) Appropriate access to prisoners should also be given to UNHCR, the Centre for Human Rights, ICRC and those non-governmental organizations that can provide necessary assistance to the prisoners;

(i) An appeal should be made for sports equipment, sewing machines and educational materials for prisoners as expressed by prisoners at Battambang prison;

(j) Educational programmes should be established to assist prisoners in re-integrating into society upon release;

(k) Police officers in charge of prisons should nominate liaison officers to work with non-governmental human rights organizations.

159. The Special Representative recommends that the Government of Cambodia should promulgate without delay national prison regulations conforming to international standards. The Centre for Human Rights should offer its assistance in the drafting of a model code of prison regulations conforming to international standards.

160. The response of the Government to the recommendations for action in respect of the "secret prison" at Chheu Kmau (see para. 92 above), although welcomed, was, in the opinion of the Special Representative, unduly delayed. It lacked the resolution that such a serious challenge to civil authority required. Had

the response come earlier, the suffering of the above prisoner and others could have been avoided. It is recommended that any such "secret prison" should not be tolerated, and that all those responsible should be charged and, if convicted, should be punished according to law. Steps should be taken to provide protection to the injured prisoner and his family so that he might give evidence against the perpetrators of such grave crimes without fear for himself or his family of reprisals from the persons responsible for these infractions of basic human rights and challenges to the rule of law. The Special Representative urges the Government of Cambodia to be vigilant to ensure that no further "secret prisons" are tolerated in Cambodia.

161. The Special Representative again calls attention to and reiterates the other recommendations on prisons contained in his first report. The Centre for Human Rights should cooperate fully with the Government of Cambodia to ensure the observation of basic principles of basic human rights in the prisons of Cambodia. The Special Representative commends the senior officers of the police who are responsible for the prisons for their cooperation with the Centre in the raising of standards and improving conditions within the means available.

L. Press law and freedom of expression

162. As the United Nations High Commissioner for Human Rights observed to the Council of Ministers and the National Assembly during his mission to Cambodia, freedom of expression is vital to human rights. It is the capacity to share ideas which affords human beings their unique character. The High Commissioner also welcomed the high level of freedom of expression in Cambodia. The Government should make greater use than it does of the capacity of the media to present the achievements of the Government and the administration. Consideration should be given to enhancing the provision of more hard news copy to the media by the appointment of more governmental press officers and the establishment, as recommended by the Khmer Journalists' Association, of a central facility for the provision of information on ministerial and governmental initiatives and viewpoints.

163. The Special Representative welcomes the diversity of free expression in Cambodia. He is appreciative of the care with which the Government of Cambodia has considered suggestions made by the Special Representative for the improvement of the draft press law. The Special Representative expresses the hope that the enactment by the National Assembly of a press law in proper form, complying both with the guarantees of free expression in the Cambodian Constitution and with the international instruments to which Cambodia has adhered, in particular the International Covenant on Civil and Political Rights, will occur without further delay. Only this will ensure that a clear and modern law replaces the Press Law of the State of Cambodia currently being enforced. That law, drafted at a time of strictly limited freedom of expression and for a one-party State, is not suitable to the current conditions of Cambodia and the compliance by Cambodia with its obligations to respect the basic human right of free expression.

164. The Special Representative urges the Centre for Human Rights, in consultation with UNESCO, the Khmer Journalists' Association and other relevant

non-governmental organizations and persons, to explore ways, by training and assistance, that standards can be improved so as to prevent the excessive use of law in the control of freedom of expression. Consideration should be given to the viability, in Cambodian circumstances, of the establishment of a press council or press ombudsman to receive citizens' complaints outside the strictly legal process and to uphold standards of accuracy and fairness in reporting.

165. The Special Representative welcomes the efforts of the Khmer Journalists' Association to raise the professional standards of its members and the acceptance, on the advice of the Centre for Human Rights, of the necessity to allow other journalists' associations to provide guidance to its members.

166. With regard to the imprisonment of Mr. Nguon Noun, while the English language translation of the articles written by Mr. Nguon appears to suggest a rather poor standard of journalism and while Mr. Nguon has himself apologized for some of his writings, the Special Representative urges the Government of Cambodia to act with particular restraint in prosecuting journalists for criminal offences. Usually, the civil law of defamation should be invoked to redress suggested civil wrongs by the media. A significant defamation damages award in a meritorious case could have an appropriately salutary effect. The danger of misuse of preventative arrest and detention, particularly in the unhealthy conditions of Cambodia's prisons, could have a chilling effect which would be disproportionate to the necessity of the case and the basic human right at stake - which must embrace even its occasional excessive or erroneous exercise.

M. Right to be elected

167. In accordance with article 25 of the International Covenant on Civil and Political Rights, every citizen, without any distinction and without unreasonable restrictions, has the right to take part in the conduct of public affairs, directly or through freely chosen representatives, as well as the right to vote and to be elected. The right to vote and to stand as candidate for election is also recognized in article 34 of the Constitution of the Kingdom of Cambodia and article 35 provides that citizens have the right to participate actively in the political life of the nation. Every citizen should have the right to participate in the life of the community in which he or she lives. In this connection, it is recommended that village and commune leaders should be elected, not selected by the Government.

N. Vulnerable groups, including women, children, the elderly and minorities

168. The Special Representative welcomes the effort by the secretariat for Women's Affairs to begin the codification of laws relating to women. The Special Representative recommends that the Centre for Human Rights continue to monitor the progress of the draft and to provide advisory services and technical assistance to the secretariat in conformity with international human rights standards. During his mission, the United Nations High Commissioner for Human Rights suggested to the Centre and to other United Nations agencies the

desirability of identifying specific projects designed to redress lack of equality on gender issues. The Special Representative supports this suggestion. He calls attention to a number of relevant suggestions in his first report which remain unimplemented. The Centre should follow up a number of projects of specific relevance to women, children and the elderly. It should include in these endeavours close consultation with non-governmental organizations devoted to the redress of inequalities suffered by women, children and the elderly in Cambodian society. Relevant projects should include assistance to the Government of Cambodia in the drafting laws to provide effective legal regimes to tackle the problems of child prostitution. child labour, particularly in rural districts, trafficking in unconsensual adult prostitution and domestic violence and abuse, particularly directed at women and especially in rural districts. Consideration should be given to encouraging:

(a) The provision of more female defenders to provide advice and assistance to women, particularly those who are the victims of domestic or other violence;

(b) The provision of more female civil servants, for example in the police;

(c) The provision of education in schools and in the general media, directed at the reduction of violence against women and the neglect and abuse of children and the use of radio and television to reduce stereotyping of women and in turn promoting empowerment;

(d) Special assistance for the elderly, amputees and war veterans;

(e) The use of unemployed elderly people in conjunction with schools to supplement the regeneration of the educational system of Cambodia;

(f) The adoption and enforcement of a legal minimum age for child labour.

169. The Special Representative repeats the call to the Government voiced by the High Commissioner for Human Rights during his mission to Cambodia relating to the plight of ethnic Vietnamese Cambodians at Chrey Thom on the border between Cambodia and Viet Nam. The Special Representative echoes the appeal of the High Commissioner to the Government to treat those people as a special case. It is urged that their case be separated from the sensitive and difficult question of the rights of ethnic Vietnamese generally in Cambodia. These people have a claim on Cambodia by virtue of having lived there for generations. It is urged that their case should be treated as one requiring action by the executive branch of Government. It should not be required to await the passage and implementation of the immigration or nationality laws. Provided they can establish, by papers or other reliable evidence, permanent residence in Cambodia for themselves or their families for an appropriate interval, and are not otherwise disqualified, they should be permitted to return to their homes in a manner supervised by UNHCR and ICRC.

170. The Special Representative expresses his appreciation to UNHCR and the Centre for Human Rights for their assistance in respect of this special problem affecting the human rights of a particularly vulnerable group of persons in

Cambodia. The Special Representative is very conscious of the sensitivity of the issue of ethnicity in Cambodia. However, he believes that Cambodians who know of the long term connection with and commitment to Cambodia of the boat people of Vietnamese ethnicity, would withdraw their objections to those people returning to their homes. Their case is separate from the general issue of ethnic immigrants.

171. The Special Representative notes with regret that, despite the extensive comments offered by the Centre for Human Rights, UNHCR and Cambodian non-governmental organizations, there is no indication that those comments have been incorporated into the draft immigration law. The draft remains seriously flawed from a human rights perspective and contains no legal safeguards for a fair implementation of the law. In addition, the draft appears to violate international conventions by, for instance, not providing for the immunities and privileges of diplomatic agents. The Special Representative recommends that:

(a) The nationality law should be drafted in consultation with the Centre for Human Rights and other relevant organizations;

(b) A nationality law should be passed as soon as possible in order to enable the implementation of the immigration law;

(c) The immigration draft should incorporate the comments offered by the Centre for Human Rights, UNHCR and Cambodian non-governmental organizations;

(d) In particular, the immigration draft should contain legal safeguards for making an expulsion order and carrying out deportation, by clearly providing for the grounds and procedures for expulsion, the right to appeal and the suspension of the expulsion/deportation order during appeal;

(e) The immigration draft should also provide that collective or mass expulsions of ethnic groups are impermissible, that the legal status of aliens who are in the country should be determined only after the passage of the nationality law, and that aliens with long-term residence in the country should, based on objective factors, be given the right to permanent residence;

(f) In particular, the provisions that restrict freedom of movement and freedom of residence of all persons who are lawfully within Cambodia should be deleted from the immigration draft;

(g) The immigration draft should also include refugees as a separate category of aliens and a refugee law should be passed to govern the status of refugees.

172. The Special Representative recommends that the reported administrative measure to survey the ethnic groups in Cambodia should be fairly administered and the results of those surveys made public. In particular, the reported confiscation of identity cards and papers of individuals by local authorities must cease and the identity cards should be returned. The Special Representative also recommends that the administrative measure to deny entry to Cambodian identity card holders based on language tests should be halted pending

the adoption of a nationality law. In addition, the officials who are found to have taken bribes should be punished.

O. Commission on Human Rights and Reception of Complaints of the National Assembly

173. The Special Representative emphasized in his first report the importance of the Commission on Human Rights and Reception of Complaints of the National Assembly. The recommendations in that report concerning the vital need to support this important and indigenous national human rights mechanism for Cambodia cannot be over-stated. Since its establishment, the Commission has received more than 800 complaints of human rights infringements. It needs urgent support to ensure that it can discharge its mandate efficiently without loss of credibility. The following require special attention and are recommended to the Government and the National Assembly of Cambodia:

(a) The Commission, its members and officers should be given a general power to secure access to prisoners and other persons in detention. At present, individual requests for access must be made in each case, with a resulting loss of time. It would be unacceptable for the Commission to be denied the access now increasingly being provided to non-governmental human rights organizations;

(b) Proposals for laws having important human rights implications should be submitted for review and report to the Commission and not confined to consideration by specialized commissions of the National Assembly;

(c) The Co-Prime Ministers should instruct all government ministers and officials to respond without unreasonable delay to formal request and recommendations addressed to them by the Commission.

174. The Commission should continue to monitor violations of human rights and intervene when appropriate with the Government. In this regard, the Commission should pay attention to all types of violations, including the violations of the rights of ethnic minorities, such as ethnic Vietnamese. The Special Representative also recommends that the Commission participate, in association with the Centre for Human Rights, in conducting human rights training programmes for members of the National Assembly.

P. Ratification of and reporting under international instruments

175. Cambodia has ratified or adhered to the following international conventions having reporting obligations: the International Covenant on Civil and Political Rights (initial report due on 25 August 1993), the International Covenant on Economic, Social and Cultural Rights (initial report due on 30 June 1994), the Convention on the Rights of the Child (initial report due on 13 November 1994), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (initial report due on 13 November 1993), the International Convention on the Elimination of All Forms of Racial Discrimination (initial report submitted on 19 November 1985, subsequent ones to be submitted) and the

Convention on the Elimination of Discrimination against Women (initial report due on 13 November 1993).

176. The Special Representative urges the Government of Cambodia to give consideration to the ratification or adherence to other international conventions having relevance to human rights.

177. During his mission to Cambodia, the United Nations High Commissioner for Human Rights urged that Cambodia should not delay its reports under the foregoing treaty obligations. The Special Representative repeats this advice to the Government of Cambodia. He welcomes the establishment of an interministerial committee to supervise the preparation of the reports. The Centre for Human Rights should provide assistance within existing resources, as should other United Nations agencies, to help Cambodia to conform to its international reporting obligations. Because of Cambodia's recent history and the special commitment of the United Nations manifested through UNTAC, there is a heightened interest in Cambodia's reports under treaty obligations. Timely reporting by Cambodia should therefore, in the view of the Special Representative, be attempted.

Q. Security issues

178. During his third mission, the Special Representative received detailed briefings on, and took an active part in discussion about, the activities of the Cambodian Mine Action Centre and non-governmental organizations involved in de-mining in Cambodia. He welcomes the strong support given by the Government of Cambodia as well as international support for the important work of removing anti-personnel and anti-tank mines, which proliferate in Cambodia.

179. The Special Representative endorses the recommendations of the group of agencies and non-governmental organizations concerned in the activities of mine clearance, released on 29 July 1994 during his field mission (see annex IV to the present report). He notes that some progress is being made in the review of the applicable 1980 international Convention and Protocol. 7/ In particular, he urges:

(a) Strict implementation by the Government of Cambodia of legal regulations on the possession and use of land-mines in Cambodia;

(b) Consideration of a unilateral cessation of the deposit of further anti-personnel mines by the RCAF to stop the cycle of land-mines despoliation of the territory of Cambodia;

(c) A request to the Secretary-General to consider summoning, at an appropriate time, an international conference to give a fresh impetus to progress on this devastating means of waging war with such terrible and indiscriminating consequences for civilians;

(d) Developing mine awareness and education by the Government of Cambodia directed to the people, especially in rural areas and areas of conflict;

(e) The promotion of new technologies of mine clearance;

(f) International prohibition of the use of plastic mines, which contain almost no metal parts and are thus extremely difficult to detect.

180. The Special Representative again calls attention to the recommendations contained in his first report concerning international control of the manufacture, export and trade in anti-personnel and anti-tank land-mines. He repeats the applicable recommendations there stated. They are given a heightened sense of urgency by what he saw during his third mission to Cambodia and the toll upon human life and the environment of Cambodia and the stability of the civil society of that country.

R. Ongoing technical support and assistance

181. The Special Representative welcomes the steps taken by the Centre for Human Rights to facilitate the operation of its Cambodia office. A number of problems have emerged in the administrative arrangements for funding the office and supporting its operations from Geneva. The Special Representative has made representations concerning these and recommends that they continue to have attention at the highest level of the United Nations. He welcomes the appointment of first Director of the office.

182. The Special Representative welcomes the agreement reached between the Centre for Human Rights and the United Nations Volunteers (UNVs) for the provision of three UNVs to the Cambodia office of the Centre for Human Rights to strengthen its activities at the provincial level. As in his previous report, the Special Representative emphasizes that, in order to be effective, the activities of the Cambodia office should not be restricted to Phnom Penh, but reach out to the provinces of Cambodia. Special attention should be devoted, in this context, to supporting and advising local human rights groups. The Special Representative welcomes the assignment of the first UNV to the office and the intention of the office to deploy him to his provincial destination as soon as he has undergone the necessary preparatory training and the security situation permits.

183. The primary mission of the Centre for Human Rights in Cambodia should be to support and assist the Government of Cambodia, the non-governmental organizations and people. The Special Representative commends the dedicated and effective work performed by officers of the Cambodia office to date. He was gratified by the repeated expressions of appreciation for their assistance voiced to him during his missions by representatives of the Government of Cambodia, non-governmental organizations, the diplomatic corps, other United Nations agencies and others.

184. The Special Representative recommends that the Centre for Human Rights undertake an evaluation of the extent to which the recommendations made by the Special Representative in the present report and his previous report are followed up and implemented. This applies to the recommendations directed to the Cambodian authorities, States Members of the United Nations, other bodies of the United Nations and the Centre for Human Rights itself. The assessment of

the effectiveness of the recommendations of the Special Representative and of the activities of the Centre for Human Rights should be an ongoing and regular aspect of the work of the office.

185. Cambodia should request help from the office of the Centre for Human Rights in Cambodia and the Centre for Human Rights in Geneva. It can count on the Special Representative to provide ongoing advice and support. It can also count on the understanding of the Representative of the Secretary-General in Cambodia, who has provided much valuable assistance to the Special Representative. Most importantly, it can also rely on the support and interest of the United Nations High Commissioner for Human Rights, whose mission to Cambodia in July 1994 reinforced that of the Special Representative.

Notes

1/ E/CN.4/1994/73 and Add.1.

2/ The Party of Democratic Kampuchea (PDK) is the official name of the "Khmer rouge". The National Army of Democratic Kampuchea (NADK) is the official name of its guerilla army.

3/ Since its formation, the newly elected Government has stopped calling the Khmer rouge by its official name. It refers to it as the "Khmer rouge group" or the "Democratic Kampuchea group".

4/ The royalist National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC) won a majority of constituencies in the elections. The Cambodian People's Party (CPP), comprising many members of the former communist party, was defeated at the elections. However, CPP retains a large say in the post-election Coalition Government in which it participates.

5/ E/CN.4/1994/73/Add.1.

6/ E/CN.4/Sub.2/1993/6, para. 51.

7/ Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps or Other Devices (Protocol II) (see The United Nations Disarmament Yearbook, vol. 5: 1980 (United Nations publication, Sales No. E.81.IX.4), appendix VI.

ANNEX I

Programme of the second mission of the Special Representative of the Secretary-General for human rights in Cambodia, 26-28 May 1994

26 May 1994

Meeting at Phnom Penh with Mr. Benny Widyono, Representative of the Secretary-General in Cambodia

Meeting with Mr. Chem Sngoun, Minister of Justice

Meeting with the diplomatic corps

27 May 1994

Meeting with foreign journalists and advisors on the press law

Visit to PJ prison at Phnom Penh

Meeting with Mr. Loy Sim Chheang, Acting Chairman of the National Assembly

Meeting with Mr. Serge Ducasse, Country Representative, UNHCR

Meeting with the Cambodian non-governmental human rights organizations

Meeting with the staff of the office of the Centre for Human Rights in Cambodia

Meeting with Mr. Kem Sokha, Chairman of the Commission on Human Rights and Reception of Complaints of the National Assembly

28 May 1994

Meeting with the Khmer Journalists' Association

Meeting with Mr. Ieng Mouly, Minister of Information

Meeting with Mr. Heng Vong Bunchatt, legal expert attached to the Government

ANNEX II

Programme of the third mission of the Special Representative of the Secretary- General for human rights in Cambodia, 16-30 July 1994

16 July 1994

Meeting with Mr. Benny Widyono, Representative of the Secretary-General in Cambodia

Meeting with the diplomatic corps

Meeting with staff of the Office of the Centre for Human Rights in Cambodia

17 July 1994

Meeting with Cambodian non-governmental human rights organizations

Meeting with Mr. Kem Sokha, Chairman of the Commission on Human Rights and Reception of Complaints of the National Assembly

Briefing on the issue of land-mines with Halo Trust and the Cambodian Mine Action Centre

18 July 1994

Meeting with Mr. Nguon Noun, journalist detained at PJ prison

Meeting at Sihanoukville with the President of the Tribunal and Prosecutor

Meeting with the Governor

19 July 1994

Prison visit (interview with detainees, prison staff and the Director)

Meeting with the Military Commander

Meeting with the Police Chief

Meeting with local human rights groups

20 July 1994

Meeting at Battambang with ILO representatives

Visit to de-mining operation on Highway 10 (to Pailin)

Visit to Boeng Ampil

Visit to Yâm Moeurnat hospital

21 July 1994

Prison visit (interview of detainees, prison staff and the Director)

Meeting with the Vice-Governor, Mr. Serei Kosal

Meeting with the President of the Tribunal

Meeting with General Vann Nây, Police Commissioner

22 July 1994

Meeting with Mr. Ung Samy, Governor

Meeting with local human rights groups

Meeting at Phnom Penh with staff of the Cambodia office of the Centre for Human Rights

Meeting with Mr. Nguyen Ngoc Sanh, President, Vietnamese Association

23 July 1994

Visit to displaced ethnic Vietnamese at Chrey Thom, on the border with Viet Nam

Meeting with the Cambodian border police

24 July 1994

Meeting with Mr. Porcell, in charge of Overseas Cooperation between the Government of France and the Government of Cambodia

24-26 July 1994

Joint programme with the United Nations High Commissioner for Human Rights (see A/49/635, annex III)

26 July 1994

Meeting with Mr. Lao Mong Hay, Acting Director of CMAC

Meeting with Mr. Alex Marcelino, Human Rights Task Force

Meeting with the Khmer Journalists' Association

27 July 1994

Meeting with General Yin Sreang, Chief, Prison Department, Ministry of Interior

Meeting with Mr. Bou Thong, Chairman, and Mr. Sar Sa-at, Vice-Chairman, Interior Commission of the National Assembly

Meeting with the French Ambassador

Meeting with organizations involved in de-mining in Cambodia

Meeting with Mr. Julio Jeldres, Executive Director of the Khmer Institute of Democracy

Meeting with Mr. Keat Sokun, Secretary of State for Women's Affairs

Meeting with Mr. Brad Adams, legal adviser to the Commission on Human Rights and Reception of Complaints of the National Assembly

28 July 1994

Meeting with government legal experts

Meeting with Mr. Khan Mon, Chairman, Commission on Social, Health, Labour and Women's Affairs

Meeting with Mr. Mon Sopan, Vice-Chairman of the Legislative Commission of the National Assembly

Meeting with the German Ambassador

Meeting with the Cambodian Development Resource Institute

Meeting with women's groups and elderly persons

Press conference on the issue of mines

Meeting with the Vietnamese Ambassador

29 July 1994

Meeting with General Lou Ramin, Director of Immigration, Ministry of Interior

Meeting with religious groups

Meeting with Mr. Richard Renas, WHO

General meeting with the media on human rights in Cambodia

Meeting with Mr. John Holloway, adviser to the Minister for Foreign Affairs

30 July 1994

Meeting with the Australian Ambassador

Meeting with Mr. Norodom Sirivudh, Minister for Foreign Affairs

ANNEX III

Human rights recommendations - 1994

Reference	Type of case	Action
HR REC 1/94 a/ (7 April 1994)	Forced eviction of armed squatters in Meanchey district (18 February 1994)	Supportive response by First Prime Minister, followed by a meeting with Ministry of Defence to clarify case. Release of 35 detainees and conviction of 12 others. Allegations of detention in dark room, of ill-treatment and confirmed extrajudicial execution of a villager and killing of a child neither investigated nor sanctioned
HR REC 2/94 (7 April 1994)	Detention of prisoner of conscience Pin Moch (15 November 1993)	Case raised by Special Representative with Minister of Interior. Prisoner was released on 14 February 1994
HR REC 3/94 (7 April 1994)	Attempted murder of two former NADK officers after they surrendered (7 December 1994)	No response. No official investigation
HR REC 4/94 (7 April 1994)	Attacks on journalists: grenade attack against newspaper Antarakum; arrest of Morning News newspaper editor (23 and 24 March 1994)	No response. Unconclusive investigation in first case. Release of editor after 48 hours
HR REC 5/94 (12 April 1994)	Massacre of 13 Vietnamese civilians (more than 25 injured) in Peam So village, Sa-ang district, Kandal Province (9 April 1994)	Seven suspects arrested following investigation were released for "lack of evidence". No further action taken in the case
HR REC 6/94 (19 May 1994,	Attempted killing of the Chief Judge of Sihanoukville Municipal Court	Perpetrator said to have been demoted and sanctioned but these actions could not be independently confirmed

Reference	Type of case	Action
HR REC 7/94 (23 May 1994)	Seizure of 10,000 copies of an issue of the newspaper Sokal by Ministry of Interior, resulting in temporary suspension of edition	No response. No action
HR REC 8/94	PJ prison	Repairs carried out in prison. Transfer of most detainees to T-3 and Prey Sar prisons
HR REC 9/94 (27 May 1994)	Press law	Law still under consideration
HR REC 10/94 (3 June 1994) and HR REC 11/94 (15 June 1994)	The Voat Cheu Kmau case (abduction, detention and execution of civilians in secret detention facilities by military personnel in Battambang province)	Minister for Foreign Affairs in written answer stated that case forwarded to relevant ministries for appropriate action. Two successive letters by the King to the co-Premiers asking for action. Military Prosecutor investigation confirms existence of secret prisons, past executions and current detention of civilians. Second inquiry commission ordered by co-Premiers inconclusive. Verbal assurances given by central and provincial authorities regarding the protection of two detainees
HR REC 12/94 (27 June 1994)	Killing of civilians by military personnel in Kratie province (April 1994)	Trial and imprisonment of three of the five suspected soldiers
HR REC 13/94 (28 June 1994)	Recommendations on the draft press law	Most comments incorporated in the draft law by Minister of Information
HR REC 14/94 (13 July 1994)	Arrest of Mr. Nguon Noun, editor of Morning News newspaper (9 July 1994)	No written response. First Prime Minister and Minister of Interior on behalf of the Government informed High Commissioner and Special Representative that action would be taken to release Mr. Noun. Released on bail on 6 August 1994

Reference	Type of case	Action
HR REC 15/94 (20 July 1994)	Prison conditions of Mr. Nguon Noun	No response. Detainee was allowed to meet his son privately once. Was not allowed to exercise out of cell. Detainee was eventually released on 6 August 1994, pending trial
HR REC 16/94 (29 July 1944)	Vietnamese displaced civilians at Chrey Thom (Cambodian/Vietnamese border)	No response. Government gave assurances that issue would be given due consideration within the framework of the immigration law to be adopted soon by the National Assembly

a/ HR REC = human rights recommendation.

ANNEX IV

Recommendations on land-mines

A. Government of Cambodia

1. The Government of Cambodia should declare a total and permanent ban on the import, stockpiling and use of land-mines.

2. Such a ban should include the destruction of all existing stockpiles of mines controlled by the Government.

3. The argument that because NADK (the "Khmer rouge") continues to use mines, the Royal Cambodian Armed Forces must also use them creates a vicious circle of death and suffering which should be broken. The Government should take responsibility for a fresh initiative to renounce this means of special violence against fellow human beings. For each new mine laid, a man, a woman or a child will lose their limbs or life today, tomorrow, in a month, in three or five years.

4. As a minimum, the Government and the National Assembly should consider several other measures:

(a) The Government should outlaw the possession and use of mines by non-military people and unauthorized military personnel and militia. In a disciplined and trained army, the use of mines may be tightly controlled since authorization to issue and lay mines often rests at higher command levels;

(b) If this is not accepted, at least within the armed forces, the Government should define and introduce precise rules and procedures aimed at regulating and controlling any use of mines by military personnel. In particular, if mines are to continue to be used, they should be laid in patterns that are clearly mapped, marked and recorded according to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps or Other Devices (Protocol II);

(c) The import and use of plastic mines, which contain almost no metal parts, and are thus extremely difficult, slow, costly and dangerous to detect and destroy should be stopped immediately. Current stockpiles of such mines should be destroyed immediately and their use strictly prohibited and sanctioned.

B. International community

5. With the establishment of the Cambodian Mines Action Centre and its supporting non-governmental organizations, Cambodia has the best mine-clearance capabilities in the world. Most importantly, the expertise is in place and the local capacity to clear the country of mines is increasing daily. What it lacks

is long-term realistic funding on a scale commensurate with the problem (US$ 900 million were spent in the clearance of Kuwait, compared with approximately US$ 14 million spent so far in Cambodia). A realistic scale would be 10,000 de-miners working for 10 years and the introduction of effective mechanical mine-clearance techniques. This would cost approximately US$ 30 million per year. Without this level of funding, a large proportion of the mines will be "cleared" by the feet of children or adults who tread on them.

6. The international community has for two decades largely contributed to the nurturing of the Cambodian conflict, thus creating the context in which millions of mines were laid. Its continued moral responsibility towards the Cambodian people consists of doing its utmost to remove the constant danger that mines pose to the lives and security of tens of thousands of men, women and children in Cambodia.

7. These are our recommendations:

(a) It is crucial that the current complementary efforts by national and international organizations involved in mine-clearing, mine awareness and education, technical assistance and assistance to the victims of mines be strengthened and accelerated;

(b) National and international mine-clearing organizations in Cambodia are accomplishing an extremely vital task. They are at the forefront of the efforts deployed to protect and promote the first and most important right of every human being: the right to life and to security of the human person;

(c) In this respect, it is crucial that international funding and the provision of expatriate supervisors/trainers be made available to enhance and strengthen the Cambodian Mine Action Centre, as the national de-mining agency;

(d) It is also of primary importance that non-governmental agencies such as Halo Trust, MAG, Handicap International, VVAF and others, which have a crucial and complementary role to play in these efforts, continue to be adequately funded with a view not only to continuing and strengthening their current activities, but also to developing and expanding them to the best of their human and technical capacities;

(e) In this respect, the moral and financial commitment and support of the international community is paramount. It should be continued and increased proportionally to the scale and gravity of the problem of mines in Cambodia. This commitment should be a long-term one. Cambodians are not overlooking the suffering of people in like situations in Afghanistan, Angola, Kurdistan, Mozambique and elsewhere. This is a shared suffering and requires a common response;

(f) The translation of such a continued international effort into field activities by de-mining organizations, if accorded proper priority, will contribute to the clearing of most of the high-priority mine-fields within a medium-term period (three-five years). In the area of mine-clearance, if de-mining capacity can be expanded, a great deal more can be achieved in the short term and lives, legs, arms and eyes, families and human dignity can be

saved and many communities can be allowed to return to normal life, free of danger, and to increased prosperity;

(g) For the moment, most, if not all, of the mine-clearance work in Cambodia is done manually. There also exist initiatives which involve experimentation with mechanical de-mining devices. The evaluation of existing methods and the development of new forms of mechanical clearance methods, that will initially complement and then exceed manual clearance efforts, should be encouraged and effectively developed.

Immediate steps towards an international ban on land-mines

(h) The ultimate objective of the efforts of the international community to address the mine issue effectively is to declare and implement effectively a total, permanent and global ban of land-mines and to declare illegal their production, stockpiling, sale, export and import. While international awareness and consciousness towards that goal is growing in public awareness and opinion, transitional alternative solutions should be considered by the international community. These include:

(i) The re-examination of the Protocol II of the 1980 Weapons Convention which, although intended to control the use of mines, has proved ineffective and appears deadlocked;

(ii) The establishment of an international fund, administered by the United Nations, to promote and finance land-mine awareness, clearance and eradication programmes world wide;

(iii) The acceptance of obligations by countries responsible for the production and dissemination of anti-personnel mines to contribute to this international fund.

(i) We request the Secretary General of the United Nations to take a new and imaginative initiative, as called for by the Special Representative for human rights in Cambodia in his report to the Human Rights Commission in early 1994. a/ Such initiative could include a high-level international conference in 1995 to revise the 1980 Convention, which has proved ineffective in preventing the global spread of land-mines, with a devastating toll of death and suffering.

(j) We call upon the international media to play an important part in informing the world community about the terrible human suffering caused by land-mines. If the cries of the maimed and killed, their families and friends could be heard, they would demand effective action from responsible and complacent Governments, callous people and the indifferent military. The cries are still coming from Cambodia, at the rate of 300 land-mine victims a month, who have surely cried enough.

Notes

a/ E/CN.4/1994/73 and Add.1.

UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/49/635/Add.1
3 November 1994

ORIGINAL: ENGLISH

Agenda item 100 (c)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Cambodia

Report of the Secretary-General

Addendum

Role of the United Nations Centre for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 2	2
II.	ACTIVITIES OF THE CENTRE FOR HUMAN RIGHTS IN CAMBODIA	3 - 58	2
	A. Trust Fund for a Human Rights Education Programme in Cambodia	3 - 9	2
	B. Activities implemented in the period from February to July 1994	10 - 58	4
III.	CONCLUSIONS	59 - 71	15

94-43083 (E) 161194 211194

I. INTRODUCTION

1. In its resolution 48/154 of 20 December 1993, the General Assembly requested the Secretary-General to report to the Assembly at its forty-ninth session on the role of the Centre for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights and on any recommendations made by the Special Representative of the Secretary-General for human rights in Cambodia.

2. The recommendations of the Special Representative are described in the report of the Secretary-General on the situation of human rights in Cambodia (A/49/635). The present addendum to that report contains a description of the activities implemented in Cambodia by the Centre for Human Rights of the Secretariat in the period from February to July 1994, and an overview of the administrative and financial difficulties that have been encountered in the operation of the office of the Centre in Cambodia.

II. ACTIVITIES OF THE CENTRE FOR HUMAN RIGHTS IN CAMBODIA

A. Trust Fund for a Human Rights Education Programme in Cambodia

3. All activities to be implemented by the Centre for Human Rights in Cambodia are to be financed through extrabudgetary resources from voluntary contributions to the Trust Fund for a Human Rights Education Programme in Cambodia. Most recently, the Commission on Human Rights, in its resolution 1994/61 adopted at its fiftieth session, invited Governments and interested organizations to contribute to the Trust Fund.

4. On the basis of the mandate entrusted to it by the Commission on Human Rights and the General Assembly, the Centre for Human Rights elaborated a programme of activities to be implemented in Cambodia, which is described in detail in the report of the Special Representative of the Secretary-General for human rights in Cambodia to the Commission on Human Rights. 1/ The full text of the programme is available from the Centre for Human Rights at Geneva.

5. The programme of activities of the Centre focuses on assisting the Government of Cambodia in the following areas:

(a) Building institutions and legal structures for human rights and democracy;

(b) Securing a system for the administration of justice consistent with international standards;

(c) Strengthening of civil society, including through non-governmental organizations;

(d) Raising awareness of human rights and encouraging popular support for democratic reforms and institutions;

(e) Strengthening of human rights activities at the local and provincial levels.

6. An appeal for funding for the programme, in an amount of US$ 2,869,000, through contributions to the Trust Fund for a Human Rights Education Programme in Cambodia was launched by the Assistant Secretary-General for Human Rights in November 1993.

7. Although the Trust Fund had been established by the United Nations Transitional Authority in Cambodia (UNTAC) during 1993 to provide additional funds for human rights activities in Cambodia, it was only possible for the Centre for Human Rights to avail itself of the resources available under the Fund in August 1994. Following the request of the Centre to the United Nations Controller, in September 1993, that the authority to manage the Fund be transferred to the Centre, the Controller, after having secured the agreement of the donors, designated the Centre as the implementing office for the Fund in February 1994. In May 1994, the Controller delegated the financial management of the Trust Fund to the Division of Administration of the United Nations Office at Geneva. Owing to additional delays in the clarification of the administrative and financial procedures for the use of the Trust Fund, it became operational only in August 1994.

8. As a result, in the period from October 1993 to August 1994, the Centre for Human Rights had to limit its activities to those within its programme and as recommended by the Special Representative of the Secretary-General for human rights in Cambodia, that could be implemented directly by the staff of its Cambodia office and at no cost. The Centre has sought to meet the numerous requests by the Government of Cambodia and non-governmental organizations to the best of its capacities. However, in many cases the lack of funds to finance human rights activities has meant that the contribution and involvement of the Centre in fields crucial to the development of a national framework respectful of human rights, such as legal and judicial reform and education, as well as training and public information activities, have been necessarily limited in their scope and impact, despite considerable achievements by the Centre while operating with limited resources. Also, many of the activities which the Centre had planned to implement to respond to the immediate human rights needs of the country had to be postponed until such time when Trust Fund resources were available, with the consequence that some of the original programmes will have to be reformulated in order to adjust to the changed situation. The delay in making the Trust Fund available to the Centre has also prevented the Centre from meeting in a timely manner its financial obligations vis-à-vis a number of Cambodian and international non-governmental organizations responsible for implementing human rights projects in the country.

9. At the time of the preparation of the present report, $923,697 had been received in the Trust Fund, and $250,000 had been pledged. The list of contributions to the Trust Fund is contained in annex I to the present report.

B. Activities implemented in the period from February to July 1994

10. The activities implemented in Cambodia by the Centre for Human Rights in the period from February to July 1994 are described below. They are grouped according to the components of the programme of advisory services and technical assistance of the Centre for Human Rights.

1. Legislative reform assistance

11. The Centre for Human Rights has carried out a number of activities to assist the Government of Cambodia in the creation of a legal framework consistent with international human rights standards and able to ensure the promotion and protection of human rights and democracy.

12. Assistance has been provided to the National Assembly in general and its Commission on Human Rights and Reception of Complaints in particular, as well as to relevant ministries, in drafting and/or providing comments on the following laws:

(a) Law on the establishment of the Supreme Council of Magistracy. The Centre for Human Rights submitted its comments on the draft law on Supreme Council of Magistracy to the Government of Cambodia and, at its request, to the Commission on Human Rights and Reception of Complaints of the National Assembly. Detailed consultations with the members of the Commission were held on the matter. Later, the Commission produced a new draft law, which was submitted to the National Assembly by several of its members. The Centre has also hosted and participated in several discussions on the law on the Supreme Council of Magistracy with members of the National Assembly, non-governmental organizations and other interested persons. The draft, which is based on the need to ensure independence of the judiciary in accordance with the Constitution of the Kingdom of Cambodia and international human rights instruments, is now being considered by the Government and the National Assembly together. The draft is expected to be taken up for consideration by the National Assembly soon;

(b) Press law. In accordance with the recommendation of the Special Representative of the Secretary-General for human rights in Cambodia, Justice Michael Kirby, contained in his report (E/CN.4/1994/73/Add.1) to the Commission on Human Rights, a seminar was held on 20 March 1994 on freedom of expression and the draft press law. Among others, the seminar was addressed by the Minister of Information, the Secretary of State for Information, the Chairperson of the Commission on Human Rights and Reception of Complaints of the National Assembly, and the Deputy Chairperson of the Commission on Legislation of the National Assembly. Subsequent to that meeting, the draft press law was extensively commented upon by the Centre for Human Rights at various stages, at the request of the Minister of Information. All the concerns voiced by the Centre have been incorporated in the draft law. The law has now been presented to the Council of Ministers for approval before being forwarded to the National Assembly. Several meetings were also held with the Khmer Journalists Association on the issues involved in the draft press law;

(c) Immigration law. The Centre for Human Rights provided detailed comments on the draft immigration law prepared by the Ministry of Interior. The Centre's work in this field has been coordinated closely with the Office of the United Nations High Commissioner for Refugees (UNHCR), which has also submitted several suggestions to the Government. Several discussions have also been held with officials of the Ministry of Interior, legal advisers to the Council of Ministers and the Ministry of Justice, members of the National Assembly, and non-governmental organizations. The Centre was also invited by the Commission on Interior of the National Assembly to attend official hearings on this issue. In addition, assistance was provided to non-governmental organizations for the adoption of a statement on the human rights and refugee aspects of immigration law to be sent to the Government. At the time of the preparation of the present report, the draft law was being considered by the National Assembly. As also noted by the Special Representative of the Secretary-General for human rights in Cambodia (see A/49/635, paras. 99 and 171), the draft law does not fully reflect the concerns expressed by the Centre and contains many provisions that appear to be or may result in violation of Cambodia's international human rights obligations. It is expected that a nationality law will be drafted by the Government. Advisory services and technical assistance will be provided by the Centre to ensure its conformity with international human rights standards;

(d) Law on the organization/management of land, urbanization and construction. The Centre for Human Rights also provided comments on the law on the organization/management of land, urbanization and construction, at the request of members of the National Assembly. This law was adopted by the National Assembly in May 1994. Prior to its adoption, several consultations were held with the members of the National Assembly on the human rights aspects of the law. The human rights concerns included forced eviction, and some aspects of the right to development relating to participation;

(e) Women's code. The Secretariat for Women's Affairs requested the assistance of the Centre for Human Rights in reviewing a draft Cambodian Women's Code, prepared by an expert from the United Nations Development Fund for Women (UNIFEM). Accordingly, weekly meetings have been held with the Secretariat staff, including the Secretary of State, on the overall objectives of the draft and strategies and mechanisms for review. At the Centre's suggestion, the Secretariat has established a review and lobbying committee. In addition, the draft code itself is being revised upon the advice of the Centre. Meetings have also been held with several non-governmental organizations and a representative of the United Nations Children's Fund (UNICEF) on the draft code. The Centre for Human Rights will continue to assist in the revision and preparation of the code, for eventual adoption by the National Assembly. At the suggestion of the Centre, the Secretariat has also agreed to prepare a set of policy guidelines to be issued by the Council of Ministers for all the ministries on issues that are relevant to women;

(f) Law on the Bar Association. A draft law on the Bar Association has been prepared by the Ministry of Justice. The Centre for Human Rights organized consultations with non-governmental organizations on the issues involved in this law. One of the concerns of the non-governmental organizations in this regard, especially of those involved in legal counselling, is whether they will be allowed to continue to work in the courts as defenders. Many defenders possess

some basic legal training acquired either in the border camps or from UNTAC. They fear that a new law on Bar Association establishing strict criteria for formal qualification of lawyers would exclude them from continuing to carry out their duties as defenders. The two consultations brought together virtually every local and international non-governmental organization working in this field in Cambodia. After these discussions, the non-governmental organizations prepared a common paper consisting of a list of their demands and submitted it to the Minister of Justice. In the meantime, discussions were also held by the Centre for Human Rights with senior officials of the Ministry of Justice on this issue. The draft law has not yet been presented to the Council of Ministers;

(g) Law on the outlawing of the "Democratic Kampuchea" group. This law, consisting of nine articles, was drafted several months ago, but was not introduced in the National Assembly because of the peace initiatives that were being made. It was finally introduced and passed during the first week of July 1994. The Centre for Human Rights provided advice on the human rights aspects of the law to some members of the National Assembly, at their request. The Centre has hosted consultations with non-governmental organizations on this law and its implications for human rights.

13. In addition, a number of other issues are being considered by the Centre for Human Rights in the area of legislative reform assistance.

14. The lack of a proper system of land tenure and the attendant social and political instability is one of the major human rights concerns in Cambodia. Any attempt to advocate reform in this area has to be based on a very deep understanding of the peculiar history of Cambodia, especially since the 1970s. So far, there is no comprehensive study on the legal, social and political basis of the issues concerning land in Cambodia. The Centre for Human Rights is conducting research on land management issues in order to acquire the information necessary to propose adequate reforms. It is expected that the Centre will be able to release a report on the reform of land law by the end of 1994. Briefings on the land issue were given to experts and delegates from the World Bank.

15. The Centre for Human Rights has also been provided with draft laws on the reorganization of the judiciary and the Statute of Judges prepared by the Ministry of Justice. The draft will be reviewed and discussions will be held with all interested persons. The Centre has also been requested by the Ministry of Justice to review the penal code, which is now being drafted. The code reportedly consists of over 500 articles defining offenses and, if passed, will replace the Provisions Relating to the Criminal Law and Procedure Applicable in Cambodia during the Transitional Period.

16. The Centre for Human Rights was invited to and attended a meeting with some members of the National Assembly on 28 June 1994 on a draft labour code.

2. Assistance in the development and strengthening of national institutions

17. In addition to the activities described above, the Centre for Human Rights has been providing advice and assistance to the Commission on Human Rights and Reception of Complaints of the National Assembly on a day-to-day basis on drafts of laws, Assembly procedure and strategies to improve the functioning of the Commission and the promotion and protection of human rights in the country. The Commission has been very active on a number of human rights issues. On the Commission's initiative, the Government has issued a circular to consult with non-governmental organizations on drafts of laws. This was one of the recommendations of the Special Representative of the Secretary-General for human rights in Cambodia in his report. 1/ On the recommendation of the Commission, the Government has agreed to separate female from male prisoners and to implement several other concrete suggestions in conformity with human rights. On the Commission's initiative, the Government has formed a National Children's Committee for protecting children's rights and a Juvenile Delinquent Centre. At the suggestion of the Centre for Human Rights, the Commission has also contacted several foreign legislative bodies dealing with human rights issues for assistance. The Commission was also involved in presenting the complaints received from the people to the royal audience presided over by King Norodom Sihanouk. The Centre has also urged the Commission to take a more active role in the protection of the rights of minorities in Cambodia, including the ethnic Vietnamese. The Centre is taking steps to create a greater awareness among the members of the Commission on these issues, and on the Commission's obligation to perform its mandated functions with impartiality and respect for Cambodia's international obligations.

18. A seminar on human rights for members and staff of the National Assembly, in cooperation with the Raoul Wallenberg Institute for Human Rights and Humanitarian Law, is being organized and is expected to be held during the next regular session of the National Assembly in 1994.

3. Administration of justice

19. The Centre for Human Rights has carried out a number of activities aimed at assisting Cambodia in establishing a system for the administration of justice consistent with international human rights standards.

20. The Appeal Court was inaugurated on 12 May 1994 (see A/49/635, para. 75). The establishment of the Appeal Court was one of the recommendations made by the Special Representative of the Secretary-General for human rights in Cambodia in his report. The Centre for Human Rights attended the inauguration ceremony, at the invitation of the Ministry of Justice. Nine judges and one prosecutor have been appointed. As a follow-up, the Centre organized, on 24 May 1994, a consultation with non-governmental organizations that are active in the field of legal representation. Issues relating to the appeal process and the mode of filing appeals, including bail applications, were discussed during the consultation.

Prisons

21. Since December 1993, the Centre for Human Rights has elaborated and implemented the prisons assistance programme. This programme has involved three elements:

(a) In the area of research, 10 per cent of prisoners in each of 12 prisons has been randomly surveyed. Half have been questioned about prison conditions and half medically examined. The American Refugee Committee and Physicians for Human Rights cooperated with the Centre for Human Rights in conducting the surveys;

(b) In training, a two-day training course was conducted in each prison for prison officers, local prosecutors and sometimes non-governmental organizations or officials;

(c) Action taken involved holding prison meetings with the Prison Director, local Police Commissioner or Assistant-Commissioner of Police and sometimes other officials. Recommendations for change and improvement were made in each case. As a result, shackles were removed in some prisons and prison rules were changed. In PJ prison in Phnom Penh, the prison population was reduced from over 200 to 46 prisoners.

22. This programme will culminate in September 1994 with the publication of a report on prisons by the Centre for Human Rights. Physicians for Human Rights will submit a report to the Centre. A seminar will be held in September to discuss reform of the prison system.

Gendarme training

23. Human rights training was integrated in the gendarme training organized by the French military cooperation programme through three seminars held on 25 and 30 March and 27 April 1994. Over 400 military police were introduced to basic human rights concepts during these courses.

Prosecutor training

24. Following requests from prosecutors attending the prison assistance programme, a meeting was arranged with senior officials of the Ministry of Justice and the Chief Prosecutor of the Appeals Court to discuss possible training avenues. It was agreed that a major training programme should be launched when the new criminal code was introduced but that, in the meantime, a small "clinical" programme may be of use. Such a programme will be prepared for further consideration by the ministries.

25. A three-day course on human rights law for a group of 30 trainee judges and prosecutors was held in August 1994.

26. Training for military and civilian prosecutors in human rights law, as well as a training programme for police, are being planned.

27. At the time of the preparation of the present report, the Centre for Human Rights was making arrangements to start implementation of a judicial mentor programme for provincial courts, in cooperation with other governmental and non-governmental organizations involved in assistance to the Cambodian judiciary.

28. The United Nations Centre for Human Rights has also been in touch with all the bilateral and multilateral organizations working in the field of administration of justice, legal and institutional reform, in order to coordinate aid efforts and maximize the impact on target areas. These include the World Bank, the United Nations Development Programme (UNDP), the United States Agency for International Development (USAID), the Asia Foundation and advisers provided by the Government of France.

4. Treaty reporting and international obligations: training of government officials

29. While the incorporation into domestic law of the provisions contained in the international instruments to which Cambodia is a party is being pursued through the assistance provided by the Centre for Human Rights in the drafting of legislation, specific assistance is being provided by the Centre to the Government to develop expertise in the preparation of reports to United Nations treaty bodies.

30. After several months of informal consultations and meetings, the Centre for Human Rights presented a one-day information seminar on Cambodia's international reporting obligations on 21 February 1994. The purposes of the seminar were to make participants aware of the conventions that Cambodia must report on, and of the international reporting process in general; to make participants generally aware of the Centre for Human Rights technical assistance programme and of UNICEF's programme regarding the Convention on the Rights of the Child; and to coordinate the formation of an inter-ministerial committee and set a date for the first meeting of such a committee.

31. A total of 18 senior officials from 10 different ministries attended the seminar. Topics included a description and overview of instruments requiring reports; the role and technical assistance programme of the Centre for Human Rights; UNICEF and the Convention on the Rights of the Child; purposes of reporting; preparation for reporting; drafting; and submission to treaty bodies and follow-up. The participants developed a concluding resolution, which called upon the Government to establish an inter-ministerial committee to oversee this work. A press release on the seminar for both the Khmer and the international press was prepared and circulated.

32. On 28 March 1994, the Government of Cambodia ordered the formation of such a committee chaired by the Minister of Justice. The Minister of Justice formally requested the Centre for Human Rights to assist the inter-ministerial committee in the definition of its structure and in commencing its work. The committee met for the first time on 13 May 1994. It is composed of 10 high-ranking officials from 10 ministries and will supervise the work of a permanent secretariat. The permanent secretariat is an organ comprising five members from

five ministries (Justice, Foreign, Social, Interior and Women's Affairs) and is the coordinator of the activities of the inter-ministerial committee and the six subcommissions that will write the reports relevant to the six conventions. To begin with, only two subcommissions are to be set up and will report on the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights. Each subcommission has five members from various ministries.

33. As mentioned below (para. 53), the Centre for Human Rights publication Manual on human rights reporting has been translated into Khmer and a number of copies have been distributed to all inter-ministerial committee members.

5. Curriculum development and education for human rights, and training of teachers and curriculum developers

34. In collaboration with the Cambodian Institute of Human Rights, the Centre for Human Rights has supported the development of a human rights curriculum for grades 1 to 11 of the Cambodian school system (primary and secondary levels). The outline of the human rights curriculum was completed, officially adopted, and signed for nation-wide implementation by the Secretary of State for Education.

35. The whole curriculum is composed of two parallel programmes: the integrated programme and the active programme. The integrated programme is used daily, all through the school year, in various subjects, such as reading, story-telling, songs, poems, literature, science and role-playing. The active programme is moral and civic education which is conducted for 8 to 10 hours in each class during the year. The final product will be in the form of a teaching guidebook for teachers (or teacher's manual). Once completed, the manual will be distributed to the 80,000 schoolteachers in Cambodia.

36. A series of seminars will be conducted at the Law School of the University of Phnom Penh beginning in October 1994.

6. Support to non-governmental organizations and civil society

37. There are more than 30 local non-governmental organizations in Cambodia that engage in human rights work. All of these have been formed since late 1991. Of these, nine work exclusively in the human rights area. Several of these groups are mass membership groups with thousands of members and with offices in most provinces. Most are small, under-funded and dependent upon volunteer work. These non-governmental organizations do not limit their mandate to civil and political rights, but combine these with a concern for economic, social and cultural rights. Thus, some of these organizations are involved in small-scale development projects in addition to training, advocacy and monitoring.

38. The non-governmental organizations have been able to work collectively on particular projects. Ponleu Khmer is the most important of these groupings. Initially established to focus on the drafting of the Cambodian Constitution in

1993, it continues to work on social and political issues. The Cambodian Human Rights Task Force, a coalition of international, regional and local non-governmental organizations, conducts training programmes, consultations and seminars; and facilitates networking and coordination of policy and action by local non-governmental organizations on specific human rights issues, such as the treatment of the Vietnamese minority. More recently, a collective of nine human rights groups called the Cambodian Human Rights Cooperation Committee has been formed to facilitate exchange of information and coordination of their activities. Six human rights non-governmental organizations have recently created a special committee, called the Action Committee, to investigate and monitor urgent human rights violations.

39. The Cambodian human rights non-governmental organizations have been active in campaigns on many human rights issues, including the situation of the ethnic Vietnamese, prisons, press freedom, and constitutional issues; the Government recently officially recognized their right to be consulted about new laws. They have attracted considerable international support, which is particularly needed to strengthen both their substantive and their operational capacity. Many have meagre budgets and difficulties in securing sustained funding, and lack rudimentary communication and office equipment and logistical capacity.

40. The activities of the Centre for Human Rights have been primarily focused on providing educational programmes, advice and consultative services to these groups. Much of the work in this area is informal, based on small group meetings often discussing day-to-day concerns and issues. The Centre has instituted weekly meetings with key human rights groups to discuss a range of issues (for example, information sharing, prison visits and recent legislation) and has held "special meetings" (for example, discussion of the law on the outlawing of the Democratic Kampuchea group).

41. Specific training activities for non-governmental organizations have included:

(a) Sociodrama. The Centre for Human Rights held a one-day seminar on the use of this dramatic presentation technique of human rights issues on 14 June 1994. It was attended by 18 non-governmental organization members;

(b) Khmer Institute for Democracy. A lecture on minority rights sponsored by this non-governmental organization was given to the Vietnamese Association on 12 July 1994;

(c) Cambodian Human Rights Trainer Organization. Lectures on the rights of the child and women's rights were given to Cambodian school directors and staff members of this non-governmental organization on 13 and 14 July 1994;

(d) Cambodian Human Rights and Development Association. A lecture on United Nations mechanisms for the protection of human rights was given to members of this non-governmental organization on 25 July 1994;

(e) A course for trainers from two local non-governmental organizations, Licadho and Vigilance, was organized to prepare them to train police in

protecting human rights. The training was conducted over seven days in February and June 1994.

42. Training sessions have been conducted with groups and individuals on an informal basis. Training for human rights non-governmental organizations in the areas of monitoring, investigation and report writing is also being planned.

43. In accordance with the mandate defined by the Commission on Human Rights and the General Assembly requesting the Centre for Human Rights to provide support to bona fide human rights groups in Cambodia, the Centre is also providing direct financial support to non-governmental organizations for the implementation of human rights projects. These include educational, training, legal counselling and networking activities. Non-governmental organization projects are financed, as the entire programme of activities of the Centre for Human Rights in Cambodia, under the Trust Fund for a Human Rights Education Programme in Cambodia.

7. Human rights and the media

44. A training session for the Khmer Journalists Association was organized on 13 June 1994 to discuss guarantees for freedom of expression, as contained in the Cambodian Constitution and in the relevant international instruments.

8. Information and documentation

45. The production, translation and distribution of information materials on human rights is an important aspect of the work of the Centre for Human Rights in Cambodia.

Inventory and distribution

46. In March 1994, a complete inventory and distribution plan for the supply of information materials of the Centre for Human Rights was made. The Centre distributed a total of 3,300 Khmer ABC guides for teachers, 5,200 large colour posters and 560 copies of the book Dream for Peace to provincial education officials from all 21 provinces during a conference in Phnom Penh for education officials. These materials will now go to teachers and schools in all provinces. Hundreds of posters were also given to five Phnom Penh high schools and five university campuses, as well as the Ministry of Education.

47. Human rights information materials have also been distributed to international non-governmental organizations, who will further distribute them to schools in the provinces. A special distribution of the human rights curriculum level "A" was made to non-governmental organizations involved in human rights training. Letters were sent to 50 non-governmental organizations offering the books, and more than 1,000 booklets have been distributed as a result.

48. On 24 March 1994, some 24,000 human rights posters, and 80 copies of Dream for Peace were delivered to UNICEF. These materials will be distributed to the

provinces through the Cambodian Women's Association networks that UNICEF works with.

49. The Khmer translations of the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention and Protocol relating to the Status of Refugees have been copied and distributed. Copies of the Convention on the Rights of the Child in Khmer, French and English were obtained from UNICEF for the resource room at the Cambodia Office of the Centre for Human Rights.

50. In April, 11,000 human rights posters, 400 colour posters, 1,100 human rights curriculum level "A" (in Khmer) and 300 ABC teaching human rights guides were also distributed to international and local non-governmental organizations. In addition, 40 copies of Dream for Peace, 200 large colour posters and 100 United Nations Educational, Scientific and Cultural Organization (UNESCO) posters have been distributed to the court, prison officials and local non-governmental organizations at the prison training sessions in PJ, Kompong Cham and Takmao prisons.

51. Distributing and cataloguing human rights materials are ongoing tasks of the Cambodia office of the Centre for Human Rights. Materials are constantly being provided to Cambodian non-governmental organizations. A comprehensive package of materials has been provided to the Cambodian Law School. A cataloguing system is being instituted in the resource room at the Cambodia office to facilitate research by visitors.

Resource and video room

52. The resource room and a study/video viewing room have been completed on the premises of the Cambodia Office. United Nations documents have been ordered and photocopies of Khmer documents have been replenished. Announcements about the resource room have been distributed to United Nations agencies, non-governmental organizations and universities.

Translations

53. Translation of the "Guidelines on Criminal Justice" and of the "Manual on Human Rights Reporting" has been completed. The updated version of the publication Compilation of Human Rights Instruments is being finalized. In addition, proceedings and notes from a number of seminars, workshops and other events have been translated and distributed.

Report of the Special Representative of the Secretary-General for human rights in Cambodia

54. The report of the Special Representative of the Secretary-General for human rights in Cambodia has been translated into Khmer and distributed, in English and Khmer, to all ministers and secretaries of State, National Assembly committee chairpersons (and all members of the Commission on Human Rights and Reception of Complaints), the entire diplomatic corps, selected international

non-governmental organizations, most Cambodian human rights non-governmental organizations, heads of all United Nations agencies, all foreign journalists and many Khmer journalists.

Monthly newsletter

55. A monthly newsletter to be published by the Cambodia office of the Centre for Human Rights is being planned. This newsletter would inform Cambodian non-governmental organizations of the Centre's activities, which in turn should build an even closer working relationship between the Centre and non-governmental organizations.

9. Other

56. The Centre for Human Rights has reached an agreement with the United Nations Volunteers for the provision of three volunteers to the Cambodia office. One volunteer assumed his functions in July 1994, while the other two are scheduled to arrive in Cambodia by the end of 1994. The volunteers will be assigned to the provincial network project of the Centre. They will be placed in three Cambodian provinces to carry out educational activities at the provincial level and assist, on request, Cambodian provincial authorities and local branches of non-governmental organizations.

57. In addition to the above-mentioned activities, an important part of the work of the Cambodia office of the Centre for Human Rights had been the provision of continuing support to the Special Representative of the Secretary-General for human rights in Cambodia in the implementation of his mandate. Consistent with the Special Representative's mandate, as defined by the General Assembly and by the Commission on Human Rights, the Cambodia office therefore assists the Special Representative in assessing the human rights situation in Cambodia by providing continuous updated information and advice on national developments relating to human rights issues and in assessing the political developments as they relate to and affect human rights; and coordinates the field missions of the Special Representative and provides logistical and substantive support during the conduct of those missions.

10. Mission of the United Nations High Commissioner for Human Rights

58. The United Nations High Commissioner for Human Rights, Mr. José Ayala-Lasso, visited Cambodia from 24 to 26 July 1994. The High Commissioner, accompanied by the Special Representative of the Secretary-General for human rights in Cambodia, met with the Cambodian acting Head of State and the First Prime Minister. An unprecedented inter-ministerial meeting, including the Ministers of Information and Justice, the Co-Ministers for Interior and Defence, and a representative of the Minister for Foreign Affairs was organized to discuss human rights issues of common concern to the ministries represented. The High Commissioner discussed the operation of the Cambodia office of the Centre for Human Rights, the technical cooperation programmes being implemented by the Centre with the Government of Cambodia, and the protection of human

rights in Cambodia, including ensuring guarantees for freedom of expression, the independence of the judiciary, the role of the military in recent cases of human rights violations, the conditions of prisons, and the treatment of ethnic Vietnamese. The High Commissioner also met Cambodian human rights non-governmental organizations, representatives of United Nations agencies in Cambodia, the international and Cambodian press, and staff of the Centre for Human Rights (the programme of the visit of the High Commissioner for Human Rights is contained in annex II).

III. CONCLUSIONS

59. The activities described above are the result of the efforts deployed by the Centre for Human Rights, despite the many administrative and financial problems which have characterized, since its beginning, the operation of its Cambodia office. These problems have hampered up to the time of the preparation of the present report the full realization of the programme of activities of the Centre and the potential impact of the Centre's activities in Cambodia.

60. A principal cause of these problems has been the insufficiency (both in terms of resources allocated and duration in time) of budgets approved by the General Assembly, at the recommendation of the Advisory Committee on Administrative and Budgetary Questions. In each case, the funds allocated and/or the time duration of approved budgets have been grossly inadequate.

61. The Centre for Human Rights was first mandated to establish an operational presence in Cambodia in February 1993 by resolution 1993/6 of the Commission on Human Rights, which was subsequently endorsed by the Economic and Social Council in July 1993 in its decision 1993/254.

62. In order to meet the request of the Commission on Human Rights that an operational presence of the Centre for Human Rights be established after the expiry of the mandate of UNTAC and in order to ensure a smooth transition from UNTAC to the Centre for Human Rights, with no disruption in the implementation of human rights activities in Cambodia, it was necessary for the Centre to establish its office at Phnom Penh on 1 October 1993, immediately after the departure of UNTAC at the end of September 1993.

63. The mandate of the Centre for Human Rights in Cambodia was a new one, and no resources had been appropriated for its implementation in the biennium 1992-1993. Furthermore, the Centre was not in a position to meet the financial requirements entailed by this new mandate within its existing financial resources.

64. Therefore pending the approval by the General Assembly at the end of 1993 of the United Nations regular budget for the biennium 1994-1995, the Centre requested the Advisory Committee on Administrative and Budgetary Questions, in August 1994, to authorize the expenditure of the resources necessary for the implementation in 1993 of the Centre's mandate in Cambodia. The budget necessary to implement the mandate entrusted to the Centre for Human Rights by Commission resolution 1993/6 was estimated by the Centre at $661,750 for five months. This would cover the salaries of the local and international

staff, general expenses for the operation of the Cambodia office and travel of the Special Representative of the Secretary-General for human rights in Cambodia.

65. In September 1993, the Advisory Committee authorized the Centre to incur expenditures only up to $288,000 for the period October to December 1993. This represented a deficit vis-à-vis estimated requirements of over $36,000 per month.

66. In November 1993, the Centre submitted, through the Office of Programme Planning, Budget and Finance, for approval by the General Assembly at its forty-eighth session, a budget for the entire biennium 1994-1995 in the amount of $2,781,000. However, in December 1993, the Advisory Committee authorized, pending the submission of a report on the continued human rights presence in Cambodia, a budget covering only the first six months of 1994 in the amount of $550,000.

67. In May 1994, the Centre submitted to the General Assembly a report on the "Continued United Nations human rights presence in Cambodia" (A/C.5/48/78). In that report, the Centre requested a budget of $2,384,100 for the period 1994-1995, that is $1,834,100 in addition to the $550,000 approved by the Advisory Committee in December 1993.

68. In June 1994, the Advisory Committee recommended to the General Assembly that only an amount of $1,500,000, inclusive of the $550,000 already approved, be approved for the financing of human rights activities in Cambodia. In other words, the Advisory Committee recommended a budget corresponding to less than 54 per cent of the budget estimated by the Centre for Human Rights to be necessary for the operation of the office.

69. Nevertheless, on 15 July 1994, the General Assembly authorized the Secretary-General to enter into additional commitments of up to $1,834,100 for the biennium 1994-1995 for the financing of human rights activities in Cambodia, thus approving the entire budget requested by the Centre.

70. The approval, until July 1994, of successive limited operational budgets prevented the smooth operation of the office, effectively rendering long-term planning impossible. As a result, it was neither possible to provide international staff with contracts of a length corresponding to that of the mandate of the Centre in Cambodia, nor to provide local staff with proper conditions of employment.

71. The approval in July 1994 of a longer term and more sufficiently resourced budget for the operation of the office will facilitate the solution of most of the above-mentioned problems. Additionally, administrative and financial procedures more suitable to the management of a field office have already been established in cooperation with the relevant Secretariat services. The head of the Cambodia office was formally appointed in August 1994. These developments will contribute to the overcoming of management difficulties.

Notes

1/ E/CN.4/1994/73 and Add.1.

ANNEX I

Contributions to the United Nations Fund for a Human Rights Education Programme in Cambodia, as at 5 September 1994

Government	Amount in local currency	Date pledged	Equivalent US$	Date paid	Final amount paid in US$	Outstanding pledge in US$
Australia	US$ 35 555	-	35 555	May 1994	35 555	-
Italy	Lit 1 666 666	May 1993	96 532	December 1993	96 532	-
Ireland	£Ir 25 000	February 1994	35 714	March 1994	35 714	-
Japan*	US$ 197 467	-	197 497	-	197 497	
Luxembourg (2)	LuxF 550 000	January 1994	15 448	February 1994	15 448	-
	US$ 15 936	-	15 936	-	15 936	-
Sweden	SKr 2 000 000	March 1994	250 000	-	-	250 000
United States*	US$ 500 000	-	500 000	1993	500 000	-
UNTAC balance	US$ 27 015	-	27 015	1993	27 015	-
Total paid					923 697	
Total outstanding pledges						250 000
Totals paid and outstanding pledges			1 173 697			

* Pledge made to UNTAC in 1993.

/...

ANNEX II

Programme of the visit of the United Nations High Commissioner for Human Rights

24 July 1994

Meeting with Mr. Benny Widyono, Representative of the Secretary-General in Cambodia, and Justice M. Kirby, Special Representative of the Secretary-General for human rights in Cambodia

Meeting with Cambodian human rights organizations

Meeting with staff of the Cambodia office of the Centre for Human Rights

Meeting with Mr. Serge Ducasse, UNHCR representative

25 July 1994

Meeting with H.E. Loy Sim Chheang, Head of State, a.i.

Meeting with H.R.H. Prince Norodom Ranariddh, First Co-Premier

Press conference

26 July 1994

Meeting with representatives of United Nations agencies in Cambodia

Inter-ministerial meeting with the Minister of Information (H.E. Ieng Mouly), Co-Ministers of Interior (H.E. Sar Kheng and H.E. You Hockry), Co-Minister of Defence (H.E. Tea Banh) and representatives from the Ministries of Foreign Affairs and Justice

Press conference